Federal Court Cour fédérale

Date: 20241011

Docket: IMM-11783-23

Citation: 2024 FC 1625

Ottawa, Ontario, October 11, 2024

PRESENT: The Honourable Mr. Justice Roy

BETWEEN:

AMRINDERPAL SINGH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is a judicial review application brought pursuant to s. 72(1) of *Immigration and Refugee Protection Act*, SC 2001, c. 27 [IRPA]. The Applicant Amrinderpal Singh contests the decision of the Refugee Appeal Decision [RAD], which confirmed the decision of the Refugee Protection Division [RPD], finding the Applicant to be neither a Convention Refugee within the meaning of section 96 of the IRPA, nor a person in need of protection within the meaning of

subsection 97(1) of the IRPA. The determinative issue for the RAD, like the RPD before it, was the credibility of the Applicant. The RAD found inconsistencies with the Applicant's evidence.

[2] The issues before this Court are as follows:

A. The reasonableness of the impugned decision; and

B. The procedural fairness of the RAD's decision.

[3] For the reasons that follow, the application must be dismissed.

I. Facts

[4] The Applicant is a 28-year old citizen from India. He fears that the police in Punjab state will harm or kill him; the Applicant alleges in his Basis of Claim (BOC) Form that the police perceive him as associated with gangsters and militants.

[5] The Applicant submitted in his BOC Form that in April 2018, his friend, Mohinder, introduced him to Karan, who was a gangster, that being unbeknownst to the Applicant. In June 2018, Mohinder, Karan, and another person visited his family's farm.

[6] On August 1, 2018, the police allegedly came to the home where the Applicant lived with his parents and searched the home. They took the Applicant to his farm and searched the barn. They told the Applicant they were searching for guns that Karan had hidden, and that they could not find Mohinder.

[7] He further alleges that the police then detained and tortured him from August 1, 2018 to August 4, 2018. His father paid a bribe to secure his release. During his alleged detention, the Applicant claims that the police assaulted him, and accused him of working with gangsters and militants. Specifically, he claims that police knew about Karan's visit to his family's farm. This visit is the basis of the police allegations that the Applicant is working with gangsters.

[8] The Applicant alleges that he received medical treatment for injuries he suffered during that period.

[9] The Applicant did not provide specific dates, however, he claimed that in September and November 2018 the police raided his house and questioned him further regarding his involvement with Mohinder and Karan.

[10] The Applicant allegedly met with a lawyer in the third week in November 2018 to talk about filing a case or complaint against the police. However, the Applicant never followed up and he did not file a complaint.

[11] On November 28, 2018, the police allegedly came to the Applicant's home, but he was not there. They told his parents that the Applicant was trying to act against the police, and he would be dealt with. His parents called the Applicant and told him not to come home. Following this event, the Applicant allegedly went into hiding in New Delhi on November 28, 2018, until an "agent" could arrange for him to leave India.

[12] However, in the meantime, on October 24, 2018, the Applicant applied for a Canadian work permit from outside of Canada. The Applicant came to Canada on February 4, 2019, on the work permit visa, and filed for refugee protection the following year in November 2020, more than 18 months later. He never left Canada.

[13] The RPD heard the Applicant's claim on March 15 and April 3, 2023. It rejected the Applicant's claim for refugee protection. The RPD found that the Applicant failed to establish, on a balance of probabilities, that he faces a serious possibility of persecution on a Convention ground, or that he would personally face a risk to life, cruel and unusual treatment or punishment, or a danger of torture, should he return India.

[14] The determinative issue for the RPD was that the Applicant did not credibly establish, on a balance of probabilities, that the events of his core allegations genuinely occurred.

[15] The Applicant appealed to the RAD. The RAD confirmed the RPD decision and subsequently dismissed the appeal on August 20, 2023. The RAD decision is the subject of this judicial review.

II. Decision Subject to Judicial Review: RAD Decision

[16] The determinative issue for the RAD was the Applicant's inability to provide sufficient credible evidence to establish his claim. The RAD upheld the RPD's finding, stating that the claimant "has not established that there is a serious possibility of persecution if he returns to India. Nor has he established that there is a likelihood, on a balance of probabilities, of a risk to

his life, or of torture, or cruel and unusual treatment or punishment" (RAD Decision at paragraph 28). The RAD's conclusion as to the claimant's credibility is based on several inconsistencies and contradictions:

A. *Inconsistency regarding detention by the police:* The RAD concluded that the Applicant did not establish his detention from August 1 to 4, 2018, on a balance of probabilities. The Applicant alleges that the police detained him from August 1 to 4, 2018. However, his bank records indicate that he conducted banking actives within this timeframe, on August 2nd, 2018. The transactions included a deposit of 50,000 rupees (about $800.00 Canadian) and a withdrawal of 100 rupees (about $1.60 Canadian). Initially, when asked by the RPD, the Applicant testified that he did not know how there could have been deposits and withdrawals to his bank account. He also testified that he is the only person with access to his bank account. However, during the RPD hearing, the Applicant's lawyer suggested that the police could have used the Applicant's bankcard during this period since they took his belongings, including his wallet when they detained him. The RAD saw that explanation as nonsensical, stating that: "it makes no sense whatsoever that they would deposit a large sum of money to his account and withdraw such a small amount. This does not benefit the police. It benefits the Appellant" (RAD Decision at paragraph 16). The RAD went even further, concluding: "The detention by the police is the central allegation in the claim. Everything that occurred after that flows from this detention. Since it did not occur, this affects the credibility of the Appellant's other allegations" (RAD Decision at paragraph 18).

B. *Inconsistency regarding location while being in hiding*: The RAD found a negative credibility finding regarding the truthfulness of the allegation that the Applicant went into hiding in New Delhi and found that he was not in hiding. The Applicant alleges that he went into hiding on November 28, 2018. On the Applicant's BOC Form, he states that the agent he hired provided him with a place to hide at his office in New Delhi. However, in his testimony, the Applicant states that his agent found him a run-down basement to stay in Connaught Place.

C. *Inconsistency regarding the Applicant's meeting with a lawyer*: The RAD made a negative credibility finding and inferred on the balance of probabilities that the Applicant did not meet with a lawyer. The Applicant's BOC Form states he met with his lawyer in the third week of November 2018 to file a complaint against the police. The lawyer told him to come back with the proper documentation within one to two days. The Applicant testified that he did not go to the appointment because the police raided his house again on November 28, 2018. The RAD found that the third work week of November 2018 started on Monday, November 19 and ended on Friday, November 23, so his appointment with his lawyer should have been before the police raid.

D. *Unchallenged findings*: The RAD noted that the Applicant did not challenge the credibility concerns regarding the Applicant's vague or inconsistent testimony

about the alleged visit by Karan and Mohinder to his farm in June 2018, nor the timing of when he first met Mohinder. The RAD noted that it is not required to provide reasons for findings made by the RPD that are left unchallenged before it. However, the RAD independently reviewed the findings and agreed with the RPD's reasoning and conclusions. While those minor concerns surrounding the inconsistencies are insufficient on their own to support a negative credibility finding. Cumulatively with the other concerns presented, the inconsistencies support a finding that the Applicant's evidence is not credible.

E. *Insufficient supporting documents to establish the allegations*: The Applicant submitted various supporting documents to establish the allegations, such as, an affidavit from his parents, an affidavit from the sarpanch (elected official) in his village, and a letter from the lawyer he allegedly consulted with in India to file a complaint against the police. The RAD determined that the RPD did not fail to give appropriate weight or value to the supporting documents. The RAD assessed the supporting documents independently from the Applicant's lack of credibility. The RAD determined that the supporting documents did not overcome the credibility concerns and were insufficient to establish the allegations. The RAD stated at paragraph 24, that the documents are inconsistent with the Applicant's testimony, which makes them unreliable; therefore, the RAD gave the documents no weight to establish the allegations in the claim.

[17] The above omissions and inconsistencies resulted in the RAD finding that the claimant lacked credibility.

III. Arguments and Analysis

A. *The RAD acted reasonably in refusing the Appeal*

(1) Standard of Review

[18] Both parties agree that the standard of review applicable to this issue is reasonableness. The Court agrees. The burden is on the applicant to show that a decision is unreasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*] at para 101). A reasonable decision "is one that is based on an internally coherent and

rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov*, at para 85).

(2) Applicant's Arguments

[19] The Applicant expresses dissatisfaction with how the RAD assessed his credibility, arguing that this assessment was unreasonable. These arguments can be summarized as follows:

i. The Applicant submits that the RAD's decision is unreasonable because it erred by not performing its own assessment of all of the evidence (Applicant's Memorandum at paragraph 29).

ii. The Applicant submits that the RAD erred in its credibility findings with respect to the Applicant's detention from August 1, 2018 to August 4, 2018. The Applicant alleges that police unlawfully detained him and the confiscation of his bankcards created an opportunity for unauthorized access to sensitive information (Applicant's Memorandum at paragraph 33-34). The Applicant stated that "The board focused its attention on matters that were immaterial and irrelevant for the claim for protection" (Applicant's Memorandum at paragraph 30).

iii. The Applicant further argues that the Board's determination that the Applicant lacked credibility was vague and imprecise (Applicant's Memorandum at paragraph 35).

iv. The Applicant submits that the RAD is placing undue emphasis on irrelevant details, rendering the Applicant unable to respond adequately (Applicant's Memorandum at paragraph 36).

(3) Analysis

[20] There is a presumption of truthfulness that applies to a claimant's sworn testimony in immigration law, "unless there be reason to doubt [it]" (*Maldonado v Minister of Employment and Immigration*, 1979 CanLII 4098 (FCA), [1980] 2 FC 302 at 305). The presumption is short at best. It is enough that there be doubt about the truthfulness for the "presumption" to fall as was found in *He v. Canada (Citizenship and Immigration)*, 2019 FC 2. In fact, it is more like the

starting point in the analysis, even though other case law does not even admit of that starting point (*R. v. Clark*, 2012 CMAC 3, 7 CMAR 646 at paras 39 to 45 [*Clark*]). According to Watt J.A., there is no such presumption at common law.

[21] Thus, this presumption can be successfully rebutted, when there are grounds to find that a claimant's testimony lacks credibility (*Ismaili v Canada* (Citizenship and Immigration), 2014 FC 84 at para 36 and *Guven v Canada (Citizenship and Immigration)*, 2018 FC 38 at paras 35 to 38). The manner in which someone testifies might be enough. There may be a failure of the account to stand up to scrutiny. The implausibility of the account can lead to adverse credibility findings, as might inconsistencies, omissions or contradictions. Of course, microscopic evaluation of issues, especially if they relate to peripheral or irrelevant matters, will not be sufficient as the law accounts for some frailties of the human memory. Nevertheless, common sense is not checked at the courtroom's door (*R. v. Goforth*, 2022 SCC 25 at para 58). Common sense and human experience are part of the testimonial analysis conducted by any fact finder (*R. v. Kruk*, 2024 SCC 7). The presence of a "starting point" prevents the arbitrariness of someone who chooses not to believe without reason. But once there are reasons to doubt the truthfulness, there is no presumption left. The testimonial analysis can take place. Thus, it is not unreasonable for the RAD to take into account the contradictions in the Applicant's file when assessing his credibility. As such, all of the above arguments must be rejected. The following section addresses each of the Applicant's arguments in detail.

[22] The "presumption" has a limited purpose and scope. However, that does not allow the administrative decision maker to escape the duty to say why credibility is undermined without

evading key points (*Utoh v Canada (Citizenship and Immigration)*, 2012 FC 399). In *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 [*Lawani*], our Court presented various principles which guide decision makers in their own testimonial analysis:

- refugee claimants are presumed to tell the truth, but such presumption can be challenged and a lack of credibility may well be sufficient to rebut it;
- small contradictions, inconsistencies, omissions may accumulate to support a negative credibility finding;
- however, minor contradictions that are secondary or peripheral to a refugee claim will be insufficient to base a negative credibility finding. Similarly, contradictions, inconsistencies and omissions cannot be exaggerated to turn minor ones into substantive issues;
- the lack of credibility with respect to central elements of a claim may be generalized to all documentary evidence presented as corroboration. I would add however that a decision maker is not to exclude documentary evidence in order for the credibility finding to be more cogent;
- the mere absence of corroborative evidence should not *stricto sensu*, base a credibility finding. But that absence may be a factor to consider where there are reasons to question credibility and an explanation for a lack of reasonably expected corroborative evidence is not upcoming;
- credibility findings may be drawn based on implausibilities, common sense and rationality. For instance, implausibility conclusions may stem from the testimony which is outside the realm of what could be reasonably expected, or falls outside of documentary evidence showing that the events could not have taken place as alleged.

[23] Another important case on credibility often quoted in this Court is *Cooper v Canada (Citizenship and Immigration)*, 2012 FC 118 [*Cooper*]. *Lawani* cites many points from *Cooper*, however, some additional principles with helpful illustrations are listed at para 4 in *Cooper*:

> …
>
> d. Not all inconsistencies and implausibilities will support a negative finding of credibility. Adverse credibility findings should not be based on microscopic examination of issues irrelevant or peripheral to the claim: Attakora v Canada

> (Minister of Employment and Immigration), [1989] FCJ No 444;
>
> e. Evidence or testimony with respect to whether a claimant travels on false travel documents, destroys travel documents or lies about them upon arrival is peripheral and of very limited value to a determination of credibility: Lubana;
>
> …
>
> h. Where a credibility finding is based on inconsistencies of the applicant, specific examples of inconsistency must be set out. The inconsistency must arise in respect of other evidence which was accepted as trustworthy. Put otherwise, an inconsistency can arise in one of two ways: evidence is internally inconsistent in the testimony of the witness, or; evidence that is inconsistent with respect to the testimony of other witnesses or documents. If, in the later situation, that of external inconsistency, the evidence on which the inconsistency is predicated must be accepted as trustworthy;

[24] In the case at bar, the RAD reasonably found and clearly set out many inconsistencies in the Applicant's case. The RAD followed all of the principles enumerated in *Lawani* and *Cooper*. I will address each of the Applicant's arguments below taking into account the *Lawani* and *Cooper* principles.

[25] First, contrary to the Applicant's argument that the RAD did not perform its own assessment of all the evidence, the RAD completed its own assessment of the Applicant's materials, and reasonably concluded he did not provide sufficient evidence to establish the central aspects of his claim on a balance of probabilities. The Applicant disagrees with the analysis, but that does not establish that the RAD did not perform its own assessment. The RAD reached this conclusion by pointing to numerous inconsistencies in the Applicant's evidence. There is no indication that the RAD committed a reviewable error. Rather, the Applicant is

essentially asking this Court to reweigh the evidence in this case. In *Vavilov*, the Supreme Court of Canada clearly outlined that a "reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker"" (*Vavilov* at para 125). Interference into the factual findings of an administrative tribunal is only justified in cases where the decision-maker "has fundamentally misapprehended or failed to account for the evidence before it" (*Vavilov* at para 126). There has not been on this record any such demonstration.

[26] There is a longstanding principle in administrative law that the reviewing court does not conduct a *de novo* analysis of a case, nor does it substitute its conclusions for those of the administrative decision maker (*Vavilov* at para 83). A reviewing court is not a court of first view. Rather, the reviewing court "puts those reasons first" in order to try to understand "the reasoning process followed by the decision maker to arrive at its conclusion" (*Vavilov* at para 84). It must have a respectful attitude towards the administrative decision (*Vavilov* at para 14) and show judicial restraint (*Vavilov* at para 13), while conducting a sensitive and respectful, but robust, evaluation (*Vavilov* at para 12). Both the outcome and the rationale of a decision must be reasonable (*Vavilov* at para 15).

[27] In its assessment of the evidence concerning a refugee claim, the RAD had no obligation to give certain weight to certain documents simply because they are the best evidence available to the Applicant. It is the Applicant's burden to demonstrate his serious risk of persecution on a balance of probabilities. The fact that the Applicant disagrees with the manner in which the evidence was weighed does not in itself open an avenue for judicial review.

[28] Second, the Applicant suggests that the RAD erred in its credibility findings with respect to the Applicant's detention, stating, "The board focused its attention on matters that were immaterial and irrelevant for the claim for protection" (Applicant's Memorandum at paragraph 30). It is well established in the case law that a decision maker "cannot base a negative credibility finding on minor contradictions that are secondary or peripheral to the refugee protection claim" (*Lawani* at para 23, *Cooper* at para 4). I cannot see in this case how the RAD focused on matters that were minor, immaterial or irrelevant for the claim of protection. The fact that a deposit took place in the bank account of the Applicant during his alleged detention period, from August 1 to August 4, 2018, was said by the Applicant to be immaterial and irrelevant. I disagree. In fact, the RAD stressed how important the detention allegations were to the Applicant at paragraph 18:

> The detention by the police is the central allegation in the claim. Everything that occurred after that flows from this detention. Since it did not occur, this affects the credibility of the Appellant's other allegations.

[29] If the Applicant claims to be tortured during that period of time, as he did, there must be a plausible explanation for the use of his bank card during that period to deposit a substantial amount of money. Indeed the Applicant had confirmed that he had sole control of his bank account. Surely if his bank card had been stolen, the thief would not have made a deposit. I cannot find anything unreasonable in the finding that this constitutes an important factor in assessing the credibility of the Applicant in view of the evidence which was before the RPD (and the RAD). Therefore, the decision remains reasonable, within the meaning of *Vavilov*, as recently confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21. The reviewing court cannot intervene. Thus, the RAD reasonably drew a negative inference from the

significant gap in the evidence on a central element of the claim (see *Kamara v Canada (Citizenship and Immigration)*, 2024 FC 13 at para 46; *Onukuba v Canada (Citizenship and Immigration)*, 2023 FC 877 at para 20; *Linares Garavito v Canada (Citizenship and Immigration)*, 2023 FC 836 at para 23).

[30] Third, the Applicant argues that the Board's determination that the Applicant lacked credibility was vague and imprecise. This contention is without merit. The RAD examined all elements challenged by the Applicant. Furthermore, the RAD even examined unchallenged findings regarding the Applicant's vague or inconsistent testimony about the alleged visit by Karan and Mohinder to his farm in June 2018, or the timing of when he first met Mohinder. This demonstrates that the RAD went above and beyond in their reasons to establish its credibility findings.

[31] Further, to this point, the Applicant cites: "Not all inconsistencies and implausibilities will support a negative finding of credibility. Adverse credibility findings should not be based on microscopic examination of issues irrelevant or peripheral to the claim: *Attakora v Canada (Minister of Employment and Immigration)*, [1989] FCJ No 444" (Applicant's Memorandum, paragraph 35(d)). This is undoubtedly true. However, as stated more recently by this Court, and on numerous occasions, general findings of lack of credibility can affect all relevant evidence submitted by an applicant, including documentary evidence, and ultimately cause the rejection of a claim (*Gebetas v. Canada (Citizenship and Immigration)*, 2013 FC 1241 at para 29; see also the Court Martial Appeal Court in *Clark, supra*, at paras 40-42). The RAD examined all aspects

on review and gave reasonable reasons as to the lack of sufficient credible evidence to establish the Applicant's claim.

[32] Fourth, the Applicant submits that the RAD is placing undue emphasis on irrelevant details, rendering the Applicant unable to respond adequately. As helpfully summarized by Justice Vanessa Rochester, then a judge of the Federal Court, in *Ali v Canada (Citizenship and Immigration)*, 2022 FC 1207 at paragraph 26 [*Ali*], the Court must adopt a highly deferential approach in assessing credibility determinations:

> Credibility determinations are part of the fact-finding process, and are afforded significant deference upon review (*Fageir v Canada (Citizenship and Immigration)*, 2021 FC 966 at para 29 [*Fageir*]; *Tran v Canada (Citizenship and Immigration)*, 2021 FC 721 at para 35 [*Tran*]; *Azenabor v Canada (Citizenship and Immigration)*, 2020 FC 1160 at para 6). Such determinations by the RPD and the RAD demand a high level of judicial deference and should only be overturned "in the clearest of cases" (*Liang v Canada (Citizenship and Immigration)*, 2020 FC 720 at para 12 [*Liang*]). Credibility determinations have been described as lying within "the heartland of the discretion of triers of fact […] and cannot be overturned unless they are perverse, capricious or made without regard to the evidence" (*Fageir* at para 29; Tran at para 35; *Edmond v Canada (Citizenship and Immigration)*, 2017 FC 644 at para 22, citing *Gong v Canada (Citizenship and Immigration)*, 2017 FC 165 at para 9).

[33] It is the Applicant's burden to demonstrate his serious risk of persecution on a balance of probabilities. The fact that the Applicant disagrees with the manner in which the evidence was weighed does not in itself open an avenue for judicial review. To attack the reasonableness of a decision, serious shortcomings must be shown to the extent that the characteristics of a reasonable decision such as justification, intelligibility and transparency can be said not to be met. It would have been necessary for an applicant to satisfy the Court of shortcomings

sufficiently central or significant to render the decision unreasonable (*Vavilov* at para 100). The question the Applicant must reply to is: "Was it demonstrated that the decision is indefensible in some respects?" I must respectfully conclude that the Applicant did not discharge his burden.

B. *The RAD respected the rules of procedural fairness*

(1) Standard of Review

[34] Questions of procedural fairness are to be reviewed on the standard of correctness (*Mission Institution v. Khela*, 2014 SCC 24 at para 79): that implies that no deference is owed to the decision maker. Or, to put it in a different way, the reviewing court operates on a correctness-like standard, with the Court asking whether the process leading to the decision was fair in all circumstances (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54-55; *Hu v Canada (Attorney General)*, 2022 FC 1678 at para 16). In effect, in both formulations, the reviewing court does not defer to the administrative tribunal and gauges what is an appropriate standard of procedural fairness in view of the factors first developed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paras 18 to 28 (and usefully summarized in *Congrégation des témoins de Jéhovah de St-Jérôme-Lafontaine v. Lafontaine (Village)*, 2004 SCC 48, [2004] 2 SCR 650 at para 5).

[35] The RAD respected the rules of procedural fairness in this case.

(2) Applicant's Arguments

[36] The Applicant expresses dissatisfaction with how the RAD assessed the evidence. As such:

A. The Applicant submits that the RAD assigned minimal significance to key elements, including affidavits from the Applicant's parents and the village sarpanch, a medical letter documenting the Applicant's hospitalization in August 2018, and a letter from the lawyer the Applicant consulted in November 2018 regarding filing a complaint against the police (Applicant's Memorandum at paragraph 41).

B. The Applicant further argues that by failing to assess the entirety of the evidence properly and independently, the conclusion reached by the RAD is unreasonable and procedurally unfair (Applicant's Memorandum at paragraphs 42, 43).

(3) Analysis

[37] There is, as a general common law principle, a duty of procedural fairness, lying on every public authority "making an administrative decision which is not of a legislative nature and which affects the rights, privileges or interests of an individual" (*Canada (Attorney General) v. Mavi*, 2011 SCC 30, citing *Cardinal v. Director of Kent Institution*, 1985 CanLII 23 (SCC), [1985] 2 S.C.R. 643, at p. 653). The question in every case is "what the duty of procedural fairness may reasonably require of an authority in the way of specific procedural rights in a particular legislative and administrative context" (*Cardinal*, at p. 654).

[38] Under the IRPA, reviewing courts may set aside decisions on the ground that the process followed by the decision maker, in order to allow interested persons a fair opportunity to participate in the decision-making process that affects their interest, failed to respect one or more of the three aspects of the duty of procedural fairness. But it is the process followed which must

be fair. The three aspects are: (1) the right to a hearing; (2) before an impartial decision-maker; (3) who is and appears to be independent (Brown and Evans, *Judicial Review of Administrative Action in Canada*) (Toronto, On: Carswell, 2013) (loose-leaf updated 2024, release 1)), noted at para 7:1.

[39] The Applicant has no claim in procedural fairness. What he raises does not constitute a violation of the procedural fairness principle. I do not find that there has been a breach of procedural fairness, taking into account the circumstances and evidence. The Applicant knew the case he needed to meet. The RAD and the RPD presented the Applicant with the opportunity to be heard by an impartial and independent decision maker. Moreover, the Applicant does not even raise in his arguments any of the fundamental aspects of procedural fairness. To put it bluntly, his complaint does not have much to do with the procedure followed, and procedural fairness generally.

[40] The RAD examined the supporting documents at length in its reasons. The RAD even noted that it assessed the supporting documents independently from its finding about the lack of credibility to determine if they overcame the credibility concerns (RAD Decision, paragraph 23). The Applicant's arguments do not even fall in the sphere of procedural fairness.

[41] Here the argument presented under the guise of procedural fairness is rather in the nature of the assessment made of some evidence presented by the Applicant. Indeed, not one case is cited in support of the contention that what is raised constitutes some violation of a principle of procedural fairness. The Applicant's arguments are reasonableness by a different name in the

hope of benefiting from the correctness standard. Looking at the Applicant's submissions, the Applicant is trying to re-litigate the credibility issue in a *de novo* fashion. That cannot be.

[42] Therefore, the Applicant's claim that the RAD breached the rules of procedural fairness cannot stand.

IV. Conclusion

[43] For the reasons outlined above, the application for judicial review must be dismissed. The Applicant has failed to demonstrate that the RAD made a reviewable error in its decision. The RAD's decision, namely its assessment of the Applicant's credibility, bears all of the hallmarks of a reasonable decision: it is transparent, intelligible and justified in light of the legal and factual constraints present in the case. As for the procedural fairness argument, it does not fall within the four corners of what constitutes procedural fairness. There is no question for certification.

JUDGMENT in IMM-11783-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Yvan Roy"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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