

Federal Court



Cour fédérale

Date: 20241028

Docket: IMM-3284-23

Citation: 2024 FC 1705

Ottawa, Ontario, October 28, 2024

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

**JAGJIT SINGH
JAGNOOR SINGH
PRABHVIR KAUR**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants seek judicial review of a decision rendered on February 14, 2023 by the Refugee Appeal Division [RAD] dismissing their refugee claim. For the reasons that follow, the application is dismissed.

[2] The Applicants, Jagjit Singh, his wife, Prabhvir Kaur, and their son, Jagnoor Singh, are citizens of India. Mr. Singh and his wife claim that, in 2017, they were harassed by the Punjabi police, and later arrested and detained for two days because of their alleged association with militants. Ms. Kaur also claims that she was assaulted by a police officer while detained.

[3] According to the Applicants, after their release, they left their village in Punjab to seek refuge at the home of Mr. Singh's uncle in Delhi. Their family home was apparently raided a few days later by the Punjabi police. The Applicants secured the help of an agent and moved from the uncle's home to alternate accommodations. They later learned that the uncle's home had been raided by the police. They left India and arrived in Canada on December 25, 2017 and filed a claim for refugee protection approximately two months later.

[4] The Refugee Protection Division [RPD] dismissed the Applicants' claim pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, as amended [IRPA]. It found significant inconsistencies and omissions in the Applicants' evidence and ultimately concluded that they were not credible with respect to their alleged interactions with the police, their arrests, their relocation to Delhi, or the allegation that the police tracked them down in Delhi.

[5] The RAD dismissed the Applicants' appeal, agreeing with the RPD's finding that the Applicants' claim lacked credibility. The RAD highlighted in its decision that Mr. Singh testified before the RPD about material events that were not included in his Basis of Claim [BOC] form, which undermined his credibility.

[6] By way of example, Mr. Singh testified that shortly after being released from the hospital following their detention, the police officer who had assaulted his wife purportedly came to their house, spoke to her alone in a private room, and threatened her with further harm if she said anything about the assault. He said this incident terrified his wife and shook both of them so badly that they decided that they had to flee their village. At the hearing before the RPD, Mr. Singh provided a detailed account of this incident and the impact it had on the couple. He identified this incident as a pivotal triggering point that led the couple to conclude that it was necessary for them to flee their village, as they would not be safe anywhere in Punjab. However, the Applicants did not detail this alleged event in their BOC. The RAD concluded that the RPD did not err in finding that this was a material omission that undermined the credibility of their allegations with respect to their dealings with the Punjabi police.

[7] In making its findings, the RAD noted that the Applicants were represented by “experienced legal counsel” in preparing the BOC form. The Applicants should therefore have known the importance of detailing all material information in their BOC narrative.

[8] On judicial review, the Applicants do not dispute that there were a number of material omissions and inconsistencies in the evidence they presented. Their argument strictly focusses on the fact that the RAD’s negative credibility determination was entirely premised on an incorrect assumption; that the Applicants were represented by “experienced legal counsel” and, as such, the decision is flawed and should be set aside.

[9] The Respondent concedes that the RAD erred in referring to the Applicants' representative as "legal counsel" in the decision; however, it submits that this is not a sufficient basis to overturn the RAD's overall finding on this point. I agree.

[10] The Applicants have seized on two words of limited significance within a longer set of reasons and seek to elevate them to a reviewable error. The fact is that the Applicants were assisted by an immigration consultant (who is routinely referred to as "counsel" in the tribunals below), with experience in navigating the refugee determination process when they filled out their BOC form. They were also represented by a different immigration consultant at the time of the hearing before the RPD.

[11] The Applicants do not suggest that their consultants were incompetent, or that they did not have an opportunity to review and update their BOC narrative prior to their hearing. Quite the opposite. Mr. Singh testified that he understood the BOC form and confirmed that it was complete, explaining the omissions from the BOC as his own choice to address "the main issues" rather than "each and every thing."

[12] There is no dispute between the parties, and I concur, that a RAD decision is reviewed on the reasonableness standard. In *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 100, the Court cautions against overturning an administrative decision "simply because its reasoning exhibits a minor misstep." Reviewable deficiencies must be "sufficiently central or significant" to render the decision unreasonable as a whole: *Alba Bravo v Canada (Citizenship and Immigration)*, 2024 FC 1182 at para 10. No such deficiency has been

established in this case. When considered in the context of the entirety of the reasons, I view the reference to “legal counsel” as a simple and inconsequential misstatement by the RAD.

[13] There was ample evidence before the RAD that the Applicants’ claim lacked credibility. The RAD’s reasons demonstrate that it conducted a thorough analysis of the record and of the errors alleged on appeal. In short, they are justified, intelligible and transparent.

[14] The application for judicial review is accordingly dismissed.

[15] The parties did not propose any questions for certification and none will be certified.

JUDGMENT IN IMM-3284-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question is certified.

“Roger R. Lafrenière”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3284-23

STYLE OF CAUSE: JAGJIT SINGH, JAGNOOR SINGH, PRABHVIR
KAUR v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: SEPTEMBER 12, 2024

JUDGMENT AND REASONS: LAFRENIÈRE J.

DATED: OCTOBER 28, 2024

APPEARANCES:

Jonathan Gruszczynski FOR THE APPLICANTS

Suzanne Trudel FOR THE RESPONDENT

SOLICITORS OF RECORD:

Canada Immigration Team FOR THE APPLICANTS
Barrister and Solicitor
Montréal, Quebec

Attorney General of Canada FOR THE RESPONDENT
Montréal, Quebec