

Federal Court



Cour fédérale

Date: 20250122

Docket: IMM-7585-23

Citation: 2025 FC 126

Ottawa, Ontario, January 22, 2025

PRESENT: The Honourable Mr. Justice Favel

BETWEEN:

RAVICHANDIRAN ULAGANATHAN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ravichandiran Ulaganathan [Applicant], a citizen of India, seeks a judicial review of a May 25, 2023 decision [Decision] of the Refugee Appeal Division [RAD]. The RAD dismissed the Applicant's appeal of a Refugee Protection Division [RPD] decision finding the Applicant is neither a Convention refugee nor a person in need of protection.

[2] The Applicant, a farmer, claims persecution in India from certain landlords, and the police who assist them, because he employs low-caste citizen workers.

[3] This application for judicial review is dismissed.

II. Facts

[4] The Applicant states he is a member of the Ambalakarar caste. He hires people from the Dalit caste, treating them well, unlike other local landlords. This caused hostility among the landlords for over 30 years. The hostility escalated when the younger generation of landlords took charge of the farmlands.

[5] In January 2018, the landlords made a false police complaint alleging the Applicant was preparing the Dalits to resist the upper class. The Applicant was detained, beaten for two days, accused of organizing communal violence against the upper caste, and warned to disassociate from Dalits immediately. The Applicant was released because his wife hired a lawyer who was a friend of the inspector.

[6] The Applicant continued to hire Dalits. On March 21, 2018, the police attended the Applicant's home and beat him in front of his wife. The Applicant was detained at the police station, was severely beaten, and accused of adultery with Dalit women. After four days detainment, his wife paid a bribe and the Applicant was released. Upon his release, the Applicant fled the country seeking refugee status in Canada.

[7] The RPD found the Applicant failed to establish a serious possibility of persecution in the proposed Internal Flight Alternative [IFA] locations, and failed to show that relocation to the IFA locations is unreasonable. The Applicant did not establish the landlords, his agents of persecution, had the required capacity and motivation to pursue him beyond the local area. Likewise, there was insufficient evidence to show the police in the IFA locations would be willing to assist the unidentified landlords or rogue local police. Therefore, the RPD rejected the Applicant's refugee claim finding the Applicant was neither a Convention refugee nor a person in need of protection due to the existence of a viable Internal Flight Alternative [IFA] in Delhi and Mumbai. The Applicant appealed to the RAD.

III. Decision

[8] The RAD dismissed the Applicant's appeal, finding the IFA the determinative issue. The RAD recognized the two-prong test for an IFA as established in *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA) requiring the panel to be satisfied that:

- (1) there is no serious possibility of the Appellant being persecuted or, on the balance of probabilities, in danger of torture or subjected to a risk to life or cruel and unusual treatment or punishment in the IFA, and
- (2) that conditions in that part of the country are such that it would be reasonable, in all the circumstances, including those particular to the Appellant, for them to seek refuge there.

[9] On the first prong, the RAD found the Applicant failed to establish the agents of persecution have the means or motivation for pursuit in the IFA locations. The RAD, in agreement with the RPD, identified the local landlords as agents of persecution using their

influence with corrupt or rogue local police. However, since the police were not acting on behalf of the state there was insufficient evidence that police in the IFA locations would be motivated to take up this cause.

[10] On the second prong, the RAD further agreed the Applicant failed to establish that conditions in the IFA locations render them unreasonable alternatives for refuge. The RPD assessed the IFAs considering personal and objective evidence, including: the Applicant's caste, religion, language, and education level; the Applicant's work experience in India, Oman and Dubai; and the economic and social characteristics of the IFA locations. The RAD concluded relocation would involve some degree of hardship, however, the Applicant had not met his burden of providing actual and concrete evidence of adverse conditions that would jeopardize his life and safety. The Applicant's successful self-employment as a farmer, employing others in India, and demonstrated work ability in Oman weighed significantly in favour of successful relocation.

IV. Issues and Standard of Review

[11] After considering the parties' submissions, the sole matter for determination is whether the Decision is reasonable. The two sub-issues are:

- A. Did the RAD reasonably consider the agents of persecution?
- B. Did the RAD reasonably assess the evidence?

[12] The Applicant and Respondent submit that standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]). I agree. This case

does not engage one of the exceptions set out by the Supreme Court of Canada in *Vavilov*.

Therefore, the presumption of reasonableness is not rebutted (*Vavilov* at paras 16-17).

V. Analysis

A. *Did the RAD reasonably consider the agents of persecution?*

(1) Applicant's Position

[13] The RAD misapprehended and ignored evidence by concluding the police were not acting on behalf of the state, but rather as corrupt or rogue officers in furtherance of the non-state aims of the local landlords. The evidence demonstrated the police were actively persecuting the Applicant for his engagement of Dalits.

[14] The country condition evidence, provided in the National Documentation Package [NDP] and a news article submitted by the Applicant, demonstrate the police in India maintain institutional inherent bias against Dalits. This evidence shows the police are an agent of persecution, seeking to punish the Applicant for his benevolence toward the Dalits. The RAD erred by failing to demonstrate it fully and reasonably understood the role of police as agents of persecution. When a state participates in persecution, an IFA is not an option (*Li v Canada (Citizenship and Immigration)*, 2014 FC 811 at para 27 [*Li*]). The NDP confirms this applies in India. Therefore, the RAD's means and motivation analysis cannot reasonably stand.

(2) Respondent's Position

[15] Anti-Dalit bias is not a ground to conclude the RAD fundamentally misunderstood police motivations. The NDP evidence of discriminatory and harsh treatment of Dalits and Dalit rights activists is not disputed. However, the Applicant's basis of claim did not concern such activities. Instead, the Applicant explained that hostility between the Applicant and the landlords led to a false police complaint against him. Police willingness to cooperate with the local landlords may have increased due to anti-Dalit bias, but that bias was not the impetus behind the first detention. The second detention was similarly linked to the landlords' displeasure with the Applicant's continued employment of Dalit workers.

[16] The Applicant cites *Li* and an NDP document to suggest IFA's are unreasonable for Indian claimants who have been harmed by the police. However, *Li* did not create a rule that any police involvement vitiates all IFAs in every case. In the present matter, local police acted at the behest of local actors. This context is distinct from *Li*, where "widespread inter-ethnic violence in Kyrgyzstan" together with "uncontradicted evidence" showed "government forces were complicit in significant acts leading to direct peril to Uzbek minorities" (*Li* at paras 6, 22, 24-27). Furthermore, the surrounding text of the NDP document cited by the Applicant in this case confirms an IFA analysis is appropriate depending on a whole host of factors.

[17] As the RAD made clear, the question is whether the Applicant's basis of claim shows local police would likely be motivated to look for him in an IFA. The country condition evidence before the RAD demonstrates no general risk from the police, and limited inter-state communication.

[18] The first prong of the IFA analysis is not dispensed with merely because local police jailed the Applicant twice. Furthermore, the personalized evidence shows the Applicant was not officially arrested, was not issued a First Information Report, nor put into the Crime and Criminal Tracking Network and Systems [CCTNS] database. Together, this evidence grounded the RAD's finding that local police, while actively participating in a supportive role at the behest of local farmers, would not be motivated to look for him in the IFAs.

(3) Conclusion

[19] The RAD's assessment of the agents of persecution was reasonable.

[20] The RAD reasonably found the local landlords were the principal agents of persecution, using their influence with corrupt or rogue local police to have the Applicant illegally detained. The RAD determined "[t]he local police are not acting on behalf of the state, but as corrupt or rogue elements in furtherance of the non-state aims of the big landlords." The country condition evidence and the Applicant's testimony on the actions of the local police do not contradict this finding.

[21] At many points in the Decision the RAD noted the Applicant provided insufficient evidence on the means and motives of non-local police to pursue him in an IFA. The Applicant's testimony on the actions of local police and the NDP evidence regarding access to justice for Dalits, including how police treat Dalits who are victims of crime, does not establish that the RAD misunderstood the role of police when assessing the Applicant's agents of persecution.

B. *Did the RAD reasonably assess the evidence?*

(1) Applicant's Position

[22] First, the RAD found that a benevolent attitude or behaviour toward Dalits does not lead to a well-founded fear of persecution. However, both the RPD and the RAD found the Applicant did establish that his benevolent attitude or behaviour towards Dalits led to his persecution. Additionally, the country condition evidence in the NDP supports that economic exploitation remains the most acute problem for the Dalits, including by high-caste landlords.

[23] Second, the RAD erred in its analysis of whether the police can pursue the Applicant using CCTNS. This suggests the RAD was not alert, alive and sensitive to the evidence before it. The RAD cited NDP evidence from 2016 indicating little inter-state police communication, yet the subsequent section showed connectivity of police stations in India have increased since 2016. The RAD also acknowledged the CCTNS captures data "on suspects or accused persons" from forms that are completed during formal criminal or legal processes. However, recent NDP evidence shows the CCTNS has expanded to establish an Inter-Operable Criminal Justice System [ICJS] integrating data from various sources in the criminal justice system.

[24] Third, the RAD agreed with the RPD's assessment of the objective documentary evidence, finding "the evidence indicates that returnees do not face problems with the authorities if they have departed from and returned to the country on valid travel documents." However, the evidence before the RAD showed the Applicant no longer possessed his passport. The RAD's failure to identify this fact is a reviewable error raising a serious question of whether the

Applicant's risk, as an unsuccessful refugee claimant returnee to India, has been adequately assessed.

[25] Finally, the RAD was unreasonably silent on aspects of the evidence when assessing the second prong of the IFA analysis. The RAD failed to acknowledge the NDP evidence indicating a Tamil person relocating to another area in India generally has family to help them access services, unlike the Applicant. Living conditions are based on caste and socio-economic class, resulting in many Tamils in the IFA areas living in slums in extreme poverty, and facing many difficulties in the manual labour force. The evidence shows the Applicant does not have family in the IFA areas, works in manual labour jobs, and belongs to a lower-ranking caste, all of which the RAD ignored.

(2) Respondent's Position

[26] First, the Applicant ignores the context of the RAD's statement regarding a failure to advance sufficient evidence showing a benevolent attitude towards Dalit workers could lead to a well-founded fear of persecution. The RAD's analysis here concerned risk of persecution in the IFA major cities, not the local village where the Applicant was detained. The Applicant isolates this statement from its context, the IFA major cities, inappropriately applying it to the local village analysis. As a result, the Applicant fails to explain how the NDP evidence establishes the agents of persecution have the means or motivation to pursue him outside the local village.

[27] Second, the RAD's finding of little inter-state police communication was not regarding the CCNTS. Rather, in response to counsel's submission suggesting a "good degree of

cooperation” between police forces, the RAD quoted evidence showing lack of communication between state police forces in India. The RAD does not dispute the availability of CCNTS in police stations. The RAD simply noted the Applicant did not appear to be entered in the CCNTS database.

[28] The Applicant further conflates CCNTS with the ICJS, two separate systems. The existence of the ICJS does not undermine the RAD’s findings in respect of the CCNTS. The Applicant claims RAD’s consideration of CCNTS’ limitations did not account for subsequent developments of ICJS. ICJS is a separate system that seeks to capture court and prison-based data, but cannot hold photos of accused or missing persons. The Applicant provides no evidence suggesting the ICJS is copied to the CCNTS, nor that the ICJS includes such extra-judicial actions taken by the village police in 2018.

[29] Third, the Applicant submits the RAD’s assessment of risk for failed refugee returnees is logically undermined by the fact that he must return on a new travel document. However, the RAD noted evidence stating, “returnees do not face problems with the authorities if they departed from and returned to the country on valid travel documents.” There is nothing in the evidence indicating that returning on a new travel document would be an issue, let alone trigger persecution, if the document is valid.

[30] Finally, the RAD reasonably considered the evidence under the second prong of the IFA analysis. The RAD expressly recognized some general discrimination against migrants, and noted the ability of a Tamil to find housing and employment in the IFAs depends on caste and

socio-economic status. The Applicant's lack of family in the IFAs was not ignored. The RAD noted the Applicant's language barriers and lack of "social network" in the IFAs, which the Applicant argued makes him unable to find housing or a job. The comment in the NDP evidence stating Tamil migrants find it useful to have family help in accessing local services is too self-evident to require comment. It is also not a point made in submissions to the RAD.

[31] The RAD acknowledged the Applicant would experience a degree of hardship if required to relocate to an IFA, noting how several elements in the Applicant's profile intersected. The RAD chose to focus on factors of more significant impact to the reasonableness of the IFAs: the Applicant's socio-economic status and caste; the stated language barrier (though it did not exist in the IFAs); the sufficient number of Tamils residing in the IFA's; the Applicant's caste which is not akin to a Dalit; and the Applicant's work experience that would significantly influence his ability to find work in either city. The RAD's reasons were responsive to the submissions.

(3) Conclusion

[32] The RAD reached reasonable conclusions on the evidence.

[33] First, I agree with the Respondent that the Applicant isolates the RAD's statement that the Applicant did not establish having a benevolent attitude towards Dalits would lead to a well-founded fear of persecution. The RAD was discussing whether the Applicant would face a serious possibility of persecution on a Convention ground in India: subject to a danger of torture, or a risk to his life, or a risk of cruel and unusual treatment or punishment in India in the context

of the IFA. The RAD was not disputing the Applicant's basis of claim and therefore did not reach a conclusion that was unjustified on the evidence.

[34] Second, the Applicant disputes the RAD's findings on the CCTNS. However, contrary to the Applicant's assertions, the RAD noted the mixed evidence on the degree of communication between state police forces. I agree with the Respondent that the RAD's actual issue was insufficiency of evidence to establish the Applicant was recorded in the CCTNS or any other database.

[35] Third, the Applicant disputes the RAD's findings on scrutiny he may face when returning to India as an unsuccessful refugee claimant. Again, I agree with the Respondent. The RAD found "the evidence indicates that returnees do not face problems with the authorities if they departed from and returned to the country on valid travel documents. The Appellant left India with his valid passport, which expires in 2024". Though the Applicant points to evidence showing he no longer has that passport in his possession, he does not raise any issues suggesting he does not have, or cannot acquire, a valid travel document for his return.

[36] Finally, the Applicant raised concerns about the second prong of the IFA analysis. I find the RAD was cognizant of the Applicant's profile, acknowledging an intersectional analysis was required. The RAD engaged with the objective documentary evidence concerning: Tamils migrating from Tamil Nadu to other states; previous targeting of Tamils in one of the IFA's prior to 2012; discrimination against migrants; the ability of a Tamil to find housing and employment being dependant on caste and socio-economic status; and the presence of sizeable Tamil

communities and significant numbers of Tamil speakers in the IFA's. The RAD also weighed evidence relating to the Applicant personally, including his employment experience in India and Oman.

[37] The Applicant submits the RAD unreasonably failed to reference NDP evidence showing a Tamil person who relocates from Tamil Nadu to another area in India generally has some kin to help them access services. I find the lack of explicit mention of this sentence from the NDP evidence does not render the Decision unreasonable. A decision-maker is not expected to respond to every detail, nor be assessed against a standard of perfection (*Vavilov* at para 91). Overall, the RAD was alive, alert and sensitive to the Applicant's potential hardship in the IFA as a migrant, Tamil, and a member of his caste.

VI. Conclusions

[38] For the reasons above, this application for judicial review is dismissed. The Applicant has not established the RAD reached an unreasonable conclusion regarding the police as agents of persecution. Nor has the Applicant demonstrated that the RAD reached unreasonable conclusions based on the evidentiary record.

[39] The parties do not propose a question for certification and I agree that none arises.

JUDGMENT in IMM-7585-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Paul Favel"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7585-23

STYLE OF CAUSE: RAVICHANDIRAN ULAGANATHAN v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JULY 9, 2024

JUDGMENT AND REASONS: FAVEL J.

DATED: JANUARY 22, 2025

APPEARANCES:

STEVEN BLAKEY	FOR THE APPLICANT
STEPHEN JARVIS	FOR THE RESPONDENT

SOLICITORS OF RECORD:

WALDMAN & ASSOCIATES TORONTO, ON	FOR THE APPLICANT
ATTORNEY GENERAL OF CANADA TORONTO, ON	FOR THE RESPONDENT