

Federal Court



Cour fédérale

Date: 20250128

Docket: IMM-3579-24

Citation: 2025 FC 178

Toronto, Ontario, January 28, 2025

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

MAHFUZ AHMED CHOWDHURY

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Mahfuz Ahmed Chowdhury [Applicant], seeks judicial review of a decision [Decision] of the Refugee Protection Division [RPD], dated February 6, 2024, which rejected his claim for protection as a Convention refugee and person in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27

[IRPA]. The determinative issue for the RPD was the availability of a viable Internal Flight Alternative [IFA] in Chittagong.

[2] For the reasons that follow, I am dismissing this application for judicial review as the Applicant has not satisfied his burden of showing that the Decision is unreasonable.

II. Legal Framework

[3] A viable IFA will negate a claim for refugee protection under both section 96 and 97 of the IRPA since a Convention refugee and a person in need of protection must be found to face the identified risk in every part of their country of origin (*Yafu v Canada (Citizenship and Immigration)*, 2014 FC 293 at para 6).

[4] The test for determining the existence of an IFA derives from three decisions of the Federal Court of Appeal, which have established a two-pronged test to determine if there is a viable IFA (*Rasaratnam v Canada (Minister of Employment and Immigration)* (1991), [1992] 1 FC 706 (FCA); *Thirunavukkarasu v Canada (Minister of Employment and Immigration)* (1993), [1994] 1 FC 589 (FCA); and *Ranganathan v Canada (Minister of Citizenship and Immigration)* (2000), [2001] 2 FC 164 (FCA)) [the IFA test].

[5] The Applicant has only challenged the RPD's assessment under the first prong of the IFA test, which requires the RPD to have found, on the balance of probabilities, that there is no serious possibility of the Applicant's persecution in the proposed IFA of Chittagong.

III. Background Facts

A. *The Start of the Applicant's Persecution*

[6] The Applicant is a citizen of Bangladesh from Sylhet, Bangladesh. He fears persecution in Bangladesh at the hands of members of Bangladesh's ruling party, the Awami League [AL]. The Applicant alleges that his entire family has been targeted and persecuted by the AL due to political activities of his father and brother dating back to 2015. The Applicant's brother fled Bangladesh and successfully sought refugee protection in Canada.

B. *Extortion of the Applicant's Father*

[7] When the Applicant's father started a successful business in 2017, the AL demanded financial contributions from the Applicant's father and insisted that he join the AL. The local members of the AL, which included a former business partner of the Applicant's father, Bansari Das Apu [Apu], and Apu's associate Pijush, demanded payments of money and continued to occasionally harass the Applicant about his brother.

[8] Five years later, on May 15, 2022, Ranjit Sarker, then AL Joint Secretary for Sylhet District [Sarker], repeated the demand that the Applicant's father pay a large sum of money and join the AL. Apu, who was present at the time, threatened that if the Applicant's father did not comply with the AL's demands, the AL would target the Applicant.

C. *The Agents of Persecution Target the Applicant*

[9] On August 15, 2022, after the Applicant's father refused the AL's demands, Apu and his associates beat the Applicant and pressured him to join the AL. Upon discharge from the hospital, the Applicant filed a General Diary (incident report) against the assailants with the police. Sarker insisted the Applicant's father withdraw the filing, warning that if he did not, Apu and his gang would harm the Applicant and his father.

[10] On October 16, 2022, Apu and his associates kidnapped the Applicant at gunpoint, took him to a dark room and beat him. The Applicant's father secured the Applicant's release through partial payment of the demanded ransom monies.

[11] After the Applicant was released, he stayed with his father's friend in Dhaka, Bangladesh until the Applicant departed Bangladesh on January 9, 2023. Even after the Applicant's departure, Apu and his associates continued to harass the Applicant's family for ransom money and asked about the Applicant's whereabouts.

D. *The Decision*

[12] On February 6, 2024, the RPD rejected the Applicant's refugee claim. The RPD found that a viable IFA exists in Chittagong, Bangladesh.

[13] The RPD accepted that the agents of persecution would remain motivated to locate the Applicant if he were to return to Bangladesh but found that the Applicant failed to establish that they would have the means to track the Applicant to Chittagong.

[14] The RPD also found that it would not be unduly harsh or unreasonable for the Applicant to relocate to Chittagong.

IV. Issues and Standard of Review

[15] The sole issue raised by the Applicant is whether it was unreasonable for the RPD to find that the agents of persecution do not have the means to locate the Applicant in the IFA of Chittagong.

[16] The applicable standard of review of the merits of a decision of the RPD is that of reasonableness as set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. A reasonable decision bears the hallmarks of justification, transparency and intelligibility with the burden resting on the challenging party to show that the decision is unreasonable (Vavilov at paras 99-100). A reviewing court must ensure that the decision demonstrates an internally coherent and rational chain of analysis that is justified in relation to the facts and law that constrained the decision maker (Vavilov at para 85).

[17] A reviewing court must also consider whether the central issues, concerns and evidence raised by the parties were meaningfully accounted for by the administrative decision maker,

while accepting that the decision maker is not required to respond to every argument or line of possible analysis (*Vavilov* at paras 127-128).

V. Analysis

[18] The Applicant submits that the RPD failed to properly consider the profile of Sarker as a Member of Parliament of the governing party in its assessment of whether the agents of persecution have the means to locate the Applicant in Chittagong. The Applicant submits that given Sarker's position within the ruling party, the agent of persecution can reasonably be seen as a state agent.

[19] According to the Applicant, two consequences flow from Sarker's position as a state agent that led the RPD to err in its IFA analysis: the Applicant's political dissent put him at risk throughout all of Bangladesh; and the agents of persecution had the means of the state to track the Applicant in Chittagong including through the Applicant's use of his National Identification Card [NIC].

[20] I address each of these submissions in turn. In assessing the Applicant's submission that the RPD ignored the evidence of Sarker's national position, the Court starts with the presumption that the RPD considered the entirety of the evidence before it. In order to rebut this presumption, the Applicant must do more than show that evidence was not discussed; the Applicant must show that the evidence has sufficient probative value such that it should have been (*Lapaix v Canada (Citizenship and Immigration)*, 2025 FC 111 at para 77).

A. *Did the RPD err by failing to consider the agents of persecution as state agents?*

[21] Sarker was elected as a Member of Parliament in January 2024, and the Applicant is of the view that this information was clearly not considered by the RPD, as the RPD identified Sarker as the AL Joint Secretary for Sylhet District.

[22] I am not persuaded that the identification of Sarker as a Member of Parliament of the ruling party, equates to a finding that the agent of persecution is a state agent.

[23] Reading the Decision holistically, the RPD considered that, while the agents of persecution are members of the AL, they are local leaders of the AL whose interest in the Applicant and his family was connected to the family's successful local business as opposed to the family's political activities. These findings were open to the RPD based on evidence referred to by the RPD that: (i) the Applicant's father had not been politically active since 2009; (ii) the brother who had been politically active left Bangladesh in 2015; (iii) the Applicant has no political affiliation; (iv) the Applicant's own narrative relates the AL's fresh activities in 2022 to his father's successful business; and (iv) all of the incidents of persecution were local.

B. *Did the RPD err in not finding that the Applicant's political dissent put him at risk throughout all of Bangladesh?*

[24] The Applicant claims that the AL would "logically and rationally" view the Applicant's refusal to join the AL contrary to the demands of an AL Member of Parliament as an expression

of political opinion against the AL itself, thereby putting the Applicant at risk throughout all of Bangladesh.

[25] I do not agree that recognition of Sarker's position is probative of the issue of whether the Applicant is viewed by the AL as a political opponent exposing him to risk throughout all of Bangladesh. The RPD considered the Applicant's same submission with respect to the AL as a whole and reasonably rejected it, finding that the Applicant lacks political profile and there was no evidence that the Applicant has the profile of a person whom the AL would spend resources on to track to another area of Bangladesh. The mere change in Sarker's title from Joint Secretary to Member of Parliament without more is not sufficiently probative in the face of these findings.

[26] I acknowledge that the extortion attempts by the agents of persecution involved a demand that the Applicant join the AL. However, the RPD addressed this in the Decision noting that while AL extortion groups, like those who targeted the Applicant and his family, aim to induce membership, the Applicant had failed to provide any objective evidence that the groups "operate in concert."

C. *Did the RPD err in failing to find that Sarker as a state agent had the means to find the Applicant in Chittagong?*

[27] The Applicant suggests that had the RPD appreciated Sarker's role within the AL as the ruling party, it follows that the Applicant could be located throughout all of Bangladesh, including through the AL's power over the police who do the bidding of the ruling party as reflected in the country condition evidence. The Applicant points, by way of example, to the

inevitable use he will have to make of his NIC, which contains personal information, including his address.

[28] I am not persuaded by the Applicant's argument.

[29] The RPD expressly considered the Applicant's allegation that having been the ruling party in Bangladesh for 15 years, the AL was "well connected" with the result that he was not safe anywhere in Bangladesh. The RPD found that the Applicant had not established "that it is more likely than not that the agents of persecution have connections to the wider body of AL in Bangladesh," nor was there evidence of AL extortion groups acting in concert. Moreover, the RPD noted that all of the incidents that form the basis of the Applicant's claim occurred in his hometown and the agents of persecution did not locate him in Dhaka. Again, the mere change in Sarker's title from Joint Secretary to Member of Parliament without more is not sufficiently probative in the face of these findings.

[30] The RPD's findings were open to it on the record. They are rational and logical, and I do not find that the Applicants' speculative allegations detract from the reasonableness of the RPD's decision.

VI. Conclusion

[31] As I am unable to conclude that the RPD erred in its findings related to the IFA analysis, the Applicant has not met his burden of showing that the Decision is unreasonable. Accordingly, this application is dismissed.

JUDGMENT in IMM-3579-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and
2. There is no question of general importance for certification.

"Allyson Whyte Nowak"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3579-24

STYLE OF CAUSE: MAHFUZ AHMED CHOWDHURY v THE MINISTER
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