Federal Court Cour fédérale

Date: 20250203

Docket: IMM-8701-22

Citation: 2025 FC 217

Ottawa, Ontario, February 3, 2025

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

MD ABIR HOSSAIN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, MD Abir Hossain [Applicant], seeks judicial review of a decision by an officer of Immigration, Refugees and Citizenship Canada [Officer] dated April 13, 2021, refusing his Pre-Removal Risk Assessment [PRRA] application [Decision]. The Applicant states that the Officer erred in concluding that he failed to demonstrate a forward-looking personalized risk of harm upon his return to the Bangladesh as he would not be subjected to a risk of

persecution, torture, a risk to his life or a risk of cruel and unusual treatment or punishment if he were to be removed.

[2] For the reasons that follow, this application for judicial review is dismissed. The Applicant has not demonstrated that the Decision is unreasonable.

II. Background and Decision under Review

[3] The Applicant is a citizen of Bangladesh who alleges that he was recruited by members of Jamaat-e-Islami and that he was attacked on two separate occasions for refusing to join this organization. He states a fear of persecution from Jamaat-e-Islami and ISIS if he were to return to Bangladesh. On December 26, 2019, he arrived in Canada from the United States where he had claimed refugee status. As a result, under paragraph 101(1)(c.1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], the Applicant was ineligible to be referred to the Refugee Protection Division [RPD].

[4] On April 13, 2021, the Applicant's PRRA was refused. The Officer found that the evidence did not demonstrate that the Applicant faces more than a mere possibility of persecution in Bangladesh as described in section 96 of the IRPA nor a substantial ground to believe that he would face a risk of torture, a risk to his life or that he would face cruel and unusual punishment as described in paragraph 97(1) of the IRPA. The Applicant did not demonstrate that, on a balance of probabilities, the attacks that he allegedly experienced in Bangladesh were either linked to Jamaat-e-Islami or ISIS.

[5] In concluding to the Applicant's absence of a forward-looking personalized risk of harm upon his return to Bangladesh, the Officer referred to negative credibility findings with respect to the evidence submitted. The adverse credibility findings included the poor quality of the Applicant's testimony at the hearing, the contradictions between the Applicant's testimony and the material evidence, and the absence of probative (or inconclusive) value of the Applicant's evidence on key aspects of his claim.

[6] The Officer's Decision rejecting the PRRA application is the subject of this judicial review.

III. Issue and Standard of Review

[7] The issue on judicial review is whether the PRRA's Decision was unreasonable.

[8] The parties submit that the standard of review with respect to the merits of the Decision is reasonableness (*Canada* (*Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 25). I agree that reasonableness is the applicable standard of review.

[9] On judicial review, the Court must assess whether the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (*Vavilov* at para 99). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (*Vavilov* at para 90). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125-126). The party

challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

IV. Analysis

[10] By way of background, paragraph 101(1)(c.1) of the IRPA applies to the Applicant as he sought asylum in the United States before arriving in Canada. Section 113.01 of the IRPA stipulates that, within the PRRA process, a hearing must be held for claimants whose claim was found to be ineligible to be referred to the RPD pursuant to paragraph 101(1)(c.1), unless the PRRA application can be granted without a hearing. This is often referred to as an "enhanced" PRRA process. Under this process, applications for protection are assessed by considering the same factors as are considered in a refugee claim. In that regard, PRRA officers apply the same tests under sections 96 and 97 of the IRPA for refugee claims (*Shahid v Canada (Citizenship and Immigration)*, 2021 FC 1335 at paras 15-17, 31-32, 71, other citations omitted).

[11] The Applicant's PRRA hearing took place on March 26, 2021. The Applicant argues that the Decision is unreasonable because the Officer erred in their analysis of the information and the documents submitted. In support of his claim, the Applicant had submitted a letter from his friend FI [FI Letter], a letter from his friend NHS, an image of a medallion, a letter from his uncle, a general diary filed by the Applicant at the Fatullah police station following his first attack on March 2, 2011, and a screenshot of a BBC.com news story [BBC screenshot].

[12] The Applicant emphasized that the Officer erred in not putting sufficient weight to the evidence that was presented. For example, the Officer did not properly assess the link between

the evidence submitted and the Applicant's fear of persecution if he were to return. The examples put forward included references to the FI Letter and the BBC screenshot. The Applicant described, for example, that the FI Letter was not given enough weight because even though the FI Letter lacked some details on the issue of the alleged risk, the letter ought to have been considered as an evidence of danger. Similarly, the BBC screenshot was not given the amount of weight necessary. The Officer did not adequately assess the link between the acts committed by the agents of persecution and the Applicant's fear of return. Had the documents been assessed properly and given proper weight, they would have proven the central issues to the Applicant's claim.

[13] On the other hand, the Respondent states that the Decision is reasonable because the Officer provided an in-depth analysis for each of the credibility findings that lead to the PRRA refusal. The Officer's assessment of the Applicant's adverse credibility findings were detailed and fully justified with regards to the evidence provided (citing *Kidane v Canada (Citizenship and Immigration)* 2019 FC 1325 at paras 41-42). In sum, the Respondent argues that the Applicant expresses dissatisfaction with the Officer's findings but this does not amount to a reviewable error. The Respondent submits that the examples provided by the Applicant present an "incomplete evidentiary assessment" and do not reflect the full picture of the evidence. The Respondent referred the Court to the various credibility findings in the Decision and the references to the inconsistencies in record.

[14] The Applicant underlined that he is not asking the Court to reweigh the evidence already assessed by the Officer. However, the Applicant's argument regarding the Officer's

"unreasonable weighing of the evidence", is in fact, asking the Court to reweigh the evidence. Following the Applicant's arguments would require the Court to revisit the evidence, weigh it and make a different finding than the Officer. The Court cannot do so under the reasonableness standard on judicial review (*Vavilov* at para 125).

[15] In reviewing the record, the letters submitted in support of the Applicant's claim were vague or contradicted the evidence given by the Applicant during the hearing. I agree with the Respondent's argument that the Officer's conclusions in the Decision were grounded in the documentary evidence in refusing the PRRA application. It was also open to the Officer to reject the Applicant's arguments on the BBC screenshot in that objective evidence documents containing non-personalized information, cannot overcome the inconsistencies and contradictions in the evidence that was before the Officer including the Applicant's testimony at the hearing.

[16] I underline that the issue before the Court is not whether the interpretations proposed by the Applicant might be acceptable or reasonable since a reviewing court must limit its analysis to the interpretation made by the Officer in the Decision. The question is not whether other alternative interpretations or conclusions would have been possible. Rather, it is whether the interpretation chosen by the decision maker passes the muster of reasonableness, even though other interpretations or conclusions might have been possible. The exercise of reinterpreting the Decision would amount to indirectly applying the correctness standard, which a reviewing Court cannot do (*Sachdeva v Canada (Citizenship and Immigration)*, 2024 FC 1522 at para 58, other citations omitted).

[17] The issues with the documents and the information contained in the letters submitted by the Applicant were assessed, clearly described by the Officer and linked to the conclusions on the reliability (or lack thereof) of the submitted evidence. Furthermore, there has been no fundamental misapprehension or failure to account for evidence that was before the Officer (*Vavilov* at para 126). The Decision was responsive to the evidence and the arguments that the Applicant put forward before the Officer in the PRRA application. The Applicant's disagreement with the assessment of evidence does not give rise to a reviewable error.

[18] I cannot find the Officer's assessment to be unreasonable. The Decision is transparent, intelligible and justifiable in light of the legal and factual constraints that bear on it.

V. Conclusion

[19] The application for judicial review is therefore dismissed.

[20] The parties did not submit any question for certification and I agree that none arises in this case.

JUDGMENT in IMM-8701-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Phuong T.V. Ngo"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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