

Federal Court



Cour fédérale

Date: 20250225

Docket: IMM-15687-23

Citation: 2025 FC 365

Toronto, Ontario, February 25, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

ABHIMANYU KAPOOR

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant challenges the decision of a Pre-Removal Risk Assessment (PRRA) Officer that determined he is neither a Convention refugee nor a person in need of protection. For the reasons that follow, the decision is reasonable and the application for judicial review is dismissed.

II. Background

[2] The Applicant is an Indian citizen who made a claim for refugee protection based on the allegation that his father was trying to harm him following years of physical abuse to him, his sisters, and especially his mother. The abuse included his father's travel to Toronto, where the Applicant's mother and sisters lived in 2017, and his threats toward them which led to his arrest. The Applicant's mother and sisters were determined to be Convention refugees based on these threats.

[3] The Applicant's father filed a criminal case against the Applicant's mother in India in an attempt to compel her return to India, and tried to involve the Applicant in this endeavour. The Applicant eventually fled India for Canada after receiving threats from the police to come to Delhi and meet with his father. After briefly remaining in Canada, the Applicant returned to India to attempt a reconciliation with his father. When this did not work, the Applicant returned to Canada in 2019 and made a refugee claim. His claim included evidence of his father's efforts to locate the Applicant, his mother, and his sisters, using influence over the police in India.

[4] The Refugee Protection Division (RPD) denied the Applicant's refugee claim and the Refugee Appeal Division (RAD) dismissed his appeal. The Applicant did not apply for judicial review of the RAD's decision.

[5] In his PRRA application, the Applicant tendered new evidence concerning the continuing interest of his father in finding him, and new evidence of country conditions in India related to the corruption of the Indian police.

III. Decisions

[6] The RPD found that the Applicant lacked a subjective fear of persecution because he returned to India despite an existing fear of his father. The RPD also rejected the claim based on a disbelief that the Applicant's father would subject him to a risk of persecution, and it found that if there was a serious risk from his father, the Applicant could be safe in internal flight alternatives (IFAs) in Agra, where his mother grew up, or in Jaipur or Indore.

[7] The RAD overturned some of the RPD's findings but agreed with the RPD's findings related to the Applicant's lack of subjective fear and the RPD's finding that IFAs exist for the Applicant. While the Applicant claimed that he could be tracked through his Aadhaar, his identity card, the RAD found that his father's inability to find him in Mumbai indicated that his father did not have an independent way of locating him, even with the assistance of the police. The RAD also found no more than a mere possibility that the tenant tracking system would enable his father to locate him:

Whatever the security flaws of the Aadhaar system, the father exhibited over an extended period no ability to exploit them.... In addition, the affidavits Mr. Kapoor filed state that his father's alleged influence is with local police and politicians. There was no evidence that it extends beyond that.

[8] As mentioned, the RAD decision was not challenged on judicial review.

[9] The Applicant presented new evidence in his PRRA application related to the continued interest of his father and the police in finding him. He presented an affidavit describing new attempts to contact him that were brought to his attention by his friends and relatives in India, and

several brief letters from friends and an aunt. He also provided recent documentary evidence regarding country conditions in India.

[10] The PRRA Officer refused the application on the basis that the risk alleged by the Applicant was not new, and the new evidence he presented did not show he could not relocate to the proposed IFAs.

IV. Issue

[11] The sole issue is whether the PRRA Officer's decision is reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], affirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [Mason]).

V. Analysis

[12] While the PRRA Officer made some dubious findings with respect to the evidence, they reasonably concluded that the new evidence tendered by the Applicant did not impact the previous finding of IFAs.

[13] The Applicant argues that the PRRA Officer erred by unreasonably overlooking his submissions and evidence that police involvement in searching for the Applicant was a “new element” establishing his risk that the RAD did not consider. The Applicant submits that the evidence revealed that the police were an independent agent of persecution that, given their nationwide capacity, could locate the Applicant in the IFAs.

[14] The PRRA submissions do not clearly establish that police involvement was a new element to the allegation of risk, and the Officer was therefore not unreasonable in failing to explicitly address it. The focus of the PRRA submission was the father's sustained interest in the Applicant, and his father's use of the police for that purpose.

[15] A reasonable decision is responsive to the evidence and submissions made by the parties (*Vavilov* at paras 127-128; *Mason* at para 74). However, the implied precondition to the requirement for responsive reasons is that the parties clearly communicate their central concerns to the decision maker. The requirement of responsiveness falls with the degree to which submissions fail to identify those central concerns and issues. Just as judicial review does not allow courts to supplement reasons, and it also does not allow parties to retroactively supplement their submissions.

[16] The new evidence of police interest and pursuit may have been distinct in degree, but it was not distinct in nature from the evidence the Applicant presented to the RPD and the RAD. The RAD's finding of no serious risk that the Applicant's father would locate the Applicant in the proposed IFAs was unchallenged. The PRRA Officer was reasonable in concluding that the Applicant had not provided sufficient new evidence to overcome this finding.

[17] The Applicant is justified in identifying problems with the PRRA Officer's reasons related to the testimonials from his friends and aunt. I agree that the PRRA Officer's findings related to this evidence could be construed as veiled credibility findings. However, despite these problems, they do not render unreasonable the Officer's finding that the evidence was not much different in nature than the evidence previously provided by the Applicant throughout the refugee process.

[18] Finally, there is no error in logic by the PRRA Officer finding corruption in India but no personalized risk to the Applicant. The Applicant's arguments assume that the RAD made a finding of personalized risk to the Applicant. No such finding was made.

VI. Conclusion

[19] The PRRA Officer's finding that there was insufficient evidence presented by the Applicant of why he could not relocate to IFAs that had been previously proposed is reasonable and the application is dismissed.

JUDGMENT in IMM-15687-23

THIS COURT'S JUDGMENT is that:

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

"Michael Battista"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-15687-23

STYLE OF CAUSE: ABHIMANYU KAPOOR v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 11, 2024

JUDGMENT AND REASONS: BATTISTA J.

DATED: FEBRUARY 25, 2025

APPEARANCES:

Sumeya Mulla	FOR THE APPLICANT
Mariam Shanouda	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Waldman and Associates Barristers and Solicitors Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT