

Federal Court



Cour fédérale

Date: 20250821

Docket: IMM-12706-24

Citation: 2025 FC 1389

Ottawa, Ontario, August 21, 2025

PRESENT: Madam Associate Chief Justice St-Louis

BETWEEN:

GURCHARAN SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The Applicant, Mr. Gurcharan Singh, seeks judicial review of the decision rendered by the Refugee Appeal Division [RAD] on June 25, 2024, [Decision] that dismissed his appeal of the Refugee Protection Division [RPD]’s decision and maintained said RPD decision. For both the RPD and the RAD, the determinative issue was the availability of an Internal Flight Alternative [IFA] for Mr. Singh in Mumbai and Delhi.

[2] Before the RAD, Mr. Singh submitted evidence that was not before the RPD, hence his own affidavit dated June 2nd, 2023, introducing 6 exhibits. In his submissions before the RAD, Mr. Singh requested an oral hearing, under subsection 110(6) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, if any other precisions were needed.

[3] In its reasons, the RAD first addressed this new evidence, found 5 of the 6 exhibits admissible under section 110 of the Act, but granted them little to no weight. In particular, the RAD found that (1) exhibit 2, relating to Mr. Singh's pro-Khalistan activities, bore little weight in establishing that he would attract the interest of the police; (2) exhibits 3 to 5, relating to the police visit at Mr. Singh's mother's house, had no weight in establishing the new allegations due to the numerous inconsistencies in the documents; and (3) exhibit 6 did not outweigh the credibility concerns of the other exhibits. Notably for these reasons, and as detailed below, the RAD also found the criteria of subsection 110(6) of the Act were not met, and that an oral hearing could therefore not be held.

[4] The RAD addressed the determinative issue of the IFAs in Mumbai and Delhi and found that the RPD was correct and that the proposed IFAs would be safe, as Mr. Singh had not established (1) that the police would have the means or motivation to find and harm him; and (2) that the proposed IFAs would be objectively unreasonable when considering his personal profile, including his age, language abilities, work experience and faith.

[5] Before the Court, Mr. Singh raises a number of arguments, notably, that the RAD breached his right to procedural fairness in its assessment of whether or not an oral hearing was

justified per subsection 110(6) of the Act. This argument is determinative and, for the reasons that follow, I will grant the Application for judicial review and will send the matter back to the RAD for redetermination. In brief, I am satisfied that the RAD's explanation for not conducting an oral hearing is not internally coherent (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65) in light of Mr. Singh's allegations, and is unreasonable. I am satisfied that this conclusion renders the decision unreasonable and that the matter must be redetermined.

II. Analysis

[6] The Supreme Court of Canada's decision in *Vavilov* established a presumption that the standard of reasonableness applies when reviewing the merits of administrative decisions (see also *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7). On judicial review, the role of the Court is to examine the reasons and determine whether the decision is based on "an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85), and whether the "decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99). Both the outcome of the decision and its reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 83, 87, 138). The onus is on the Applicant to establish the Decision as unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision: the Court must be satisfied that there are "sufficiently serious shortcomings" (*Vavilov* at para 100).

[7] Subsection 110(3) of the Act sets out, as a general rule, that the RAD must proceed without an oral hearing. However, subsection 110(6) of the Act states that the RAD may hold a

hearing if, in its opinion, there is newly submitted documentary evidence that: (a) raises a serious issue with respect to the credibility of the person who is the subject of the appeal; (b) is central to the decision with respect to the refugee protection claim; and (c) if accepted, would justify allowing or rejecting the refugee protection claim (*Singh v Canada (Citizenship and Immigration)*, 2016 FCA 96 at para 48). While an oral hearing is discretionary, that discretion must be exercised reasonably in the circumstances of the case (*Zhuo v Canada (Citizenship and Immigration)*, 2015 FC 911 at para 11).

[8] The RAD's decision on the oral hearing is found at paragraphs 51 to 53 of its reasons and states that: "In accordance with section 110(6) of the IRPA, an oral hearing at the RAD will be held if the new evidence raises a serious issue with respect to the credibility of the Appellant, is central to the decision with respect to the RPD claim, and if accepted, the evidence would justify allowing or rejecting the claim. [52] I find that the new evidence raises concerns about the credibility of the new allegations of the Appellant but not of his previous core allegations, is not central to the decision with respect to the RPD claim and if accepted, it would not justify allowing or rejecting the claim. [53] I therefore find that an oral hearing cannot be held, as the criteria has not been met".

[9] However, one of Mr. Singh's allegations pertain to the police regularly or constantly visiting and harassing Mr. Singh's mother in India; the RAD particularly addressed said allegation at paragraph 104 of its reasons, as part of its analysis on the first prong of the IFA legal test. The RAD concluded that "Aside from the incident alleged in the new evidence that I found not to be credible, the Appellant did not substantiate this allegation with dates and

circumstances, beyond a general statement of a visit by police to his wife in March 2019”. As the Applicant argued, this tends to demonstrate that the RAD found this allegation was indeed central to Mr. Singh’s claim, while it had dismissed the new evidence as non-central when assessing whether an oral hearing was warranted under subsection 110(6) of the Act.

[10] As mentioned above, where the applicable standard of review is reasonableness, the role of the court is to examine the reasons given by the administrative decision-maker and to determine whether the decision is based on “an internally coherent and rational chain of analysis”. Here, the reasoning is fatally flawed; it is not coherent.

III. Conclusion

[11] The Application for judicial review will thus be granted and the matter sent back to the RAD for redetermination. The parties have not proposed any question to certify, and I am satisfied none arises in the context of this case.

JUDGMENT in IMM-12706-24

THIS COURT’S JUDGMENT is that:

1. The Applicant’s Application for judicial review is granted.
2. No question is certified.
3. No costs are awarded.

“Martine St-Louis”
Associate Chief Justice

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-12706-24

STYLE OF CAUSE: GURCHARAN SINGH v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTREAL, QC

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JUDGMENT AND REASONS: ST-LOUIS ACJ.

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