

Federal Court



Cour fédérale

Date: 20250825

Docket: IMM-5227-24

Citation: 2025 FC 1404

Ottawa, Ontario, August 25, 2025

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

ABDULLAH AL MAMUN KHAN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of a decision made by the Refugee Appeal Division [RAD] on February 13, 2024 [the Decision], which dismissed his appeal of the prior decision by the Refugee Protection Division [RPD]. The RAD confirmed the finding that the Applicant is neither a *Convention* refugee nor a person in need of protection pursuant to section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] The determinative issue before the RPD and the RAD was that the Applicants had a viable internal flight alternative [IFA] location in Bangladesh and did not establish that it was unreasonable for the Applicant to relocate to the identified IFA.

[3] For the reasons that follow, this application for judicial review is dismissed.

I. Background

[4] The Applicant is a 47-year-old citizen of Bangladesh who formerly resided in or near Dhaka, Bangladesh, with his wife and children, where he operated a successful restaurant since 2016. The Applicant alleges a fear of persecution at the hands of certain members of the Jamaat-E-Islam group [the JEI Group] in Bangladesh on account of having made statements criticizing Islamic leaders and jihadists to an individual named M.A.H.

[5] The Applicant claims that he was visited by members of the JEI group at his home to discuss religion and Islamic ideology on three occasions: once in August 2018, again in December 2018, and finally on February 11, 2019.

[6] During their last visit, the members of the JEI group attended the Applicant's home with a Mowlana named Abul Hassan [M.A.H.] who was also the principal of a madrassa near the Applicant's home.

[7] The Applicant claims that M.A.H. demanded a percentage of profits from the Applicant's restaurant for the madrassa and demanded that the Applicant send his own children to the

madrassa. The Applicant alleges that he argued with A.H. about aspects of Islamic fundamentalism and/or fundamentalist groups and condemned the evil acts of JEI terrorists. M.A.H. is alleged to have become angry and to have instructed his colleagues to take the Applicant's photograph for distribution to jihadists across Bangladesh. M.A.H. is claimed to have threatened that the Applicant would be killed.

[8] The Applicant testified that his February 11, 2019, criticisms of jihadists were the only time he had made any such statement with respect to JEI terrorists.

[9] The Applicant did not go to the police following the incident because he did not think they could help him and felt he would always be vulnerable. The Applicant claimed that he could not be safe anywhere in Bangladesh because he would always draw the attention of "millions of jihadists" across the country, who have the capacity to track and locate their targets through social media.

[10] The Applicant and his family left their home and fled to a village approximately 250 kilometers from Dhaka to hide with the Applicant's father-in-law until the Applicant could flee Bangladesh. The Applicant did not have any encounter with jihadists while staying with his father-in-law. The Applicant's wife and children remained with the father-in-law while the Applicant was assisted by his brother and an agent to secure a visa to Canada. The Applicant's children were home schooled by the Applicant and his spouse choice because they did not want their children to travel the distance to be travelled to get to a school.

[11] The Applicant was granted a visitor visa on March 4, 2019, and arrived in Montreal on March 17, 2019. He filed a refugee claim one month later, on April 17, 2019.

[12] There is no evidence led that the JEI or M.A.H., or any other jihadists, have inquired about the Applicant from other family members in Bangladesh, or that any of his mother or four siblings who live in Bangladesh have been approached by the JEI, M.A.H. or by any other jihadists to inquire about his whereabouts.

II. **Decision Under Review**

[13] The RPD found the Applicant and his testimony regarding the visit from A.H and his associates and the ensuing threat he received after responding A.H.'s comments to be credible. The RPD also found that the corroborative evidence from the Applicant's wife and his brother in the form of letters accompanied by their identification documents enhanced the Applicant's credibility regarding the visit from M.A.H. and the threat made to him.

[14] The RPD nevertheless found that the Applicant had not established that the threat he faced in Dhaka translated into a risk in the identified IFA location of Chittagong, Bangladesh. The RPD found that the evidence led did not establish that the JEI, M.A.H. or other jihadists were motivated to find the Applicant in the proposed IFA location. Further, the RPD accepted the Applicant's testimony that he had learned from news reports that jihadists post photos of their targets on social media, but that he did not actually see that his photograph had been posted on social media. Given the absence of evidence of jihadist social media posting of the

Applicant's photograph, the RPD found that any jihadist social media posting of the Applicant's photograph was speculative.

[15] The RPD found that the Applicant did not prioritize religion while living in Bangladesh, attended mosque on Fridays only, that there was no evidence regarding the power or influence of JEI or of M.A.H. outside of Dhaka, or evidence that the JEI or M.A.H. had the ability to track persons across Bangladesh.

[16] The objective evidence contained in the National Documentation Package reflected that Islamist organizations targeted and have threatened violence against individuals who publicly criticized Islamic fundamentalism. The RPD found and concluded that the Applicant was not a public critic of Islamic fundamentalism and did not fit the profile of an individual whom the JEI or other Islamist organizations would target in the proposed IFA location.

[17] The RPD therefore held that the Applicant failed to establish a serious possibility of persecution or, on a balance of probabilities, that he would be personally subjected to a danger of torture or a risk to life or of cruel and unusual treatment or punishment in the proposed IFA location.

[18] The RPD then considered the Applicant's evidence that it would be unduly harsh or objectively unreasonable for him to relocate to Chittagong. The Applicant did not lead evidence that he would encounter undue hardship in travelling to or staying in the proposed IFA. Considering the Applicant's education level, years of experience in the restaurant industry as

well as in other industries, adaptability, demonstrated ability to find employment, as well as his continued contact with his family, the RPD held that there was insufficient evidence before it to suggest that the conditions facing the Applicant upon relocation to the proposed IFA would be so severe so as to render that relocation unreasonable.

[19] The RPD held that the Applicant failed to establish a serious possibility of persecution or, on a balance of probabilities, that he would be personally subjected to a danger of torture or a risk to life or of cruel and unusual treatment or punishment in the proposed IFA location. The RPD held that it was not unreasonable for him to relocate to the proposed IFA location. The Applicant's claim was therefore rejected.

[20] The Applicant appealed from the RPD's decision to the RAD.

[21] The Applicant repeated the arguments he had made before the RPD, relied on the evidence he had led before the RPD and sought to persuade the RAD that the RPD had made errors such that its decision should not stand.

[22] The RAD's fresh consideration of the Applicant's evidence and arguments including apparently new arguments regarding unemployment levels in the proposed IFA location confirmed that the RPD had not made any error in its assessment of the evidence and arguments before it.

[23] The RAD confirmed that the Applicant had not met his burden to show that the proposed IFA was unreasonable or that he would face risks as contemplated by section 97 of the IRPA in relocating to the proposed IFA. The RAD dismissed the Applicant's appeal.

III. Issue

[24] The sole issue before the Court is whether the RAD's decision was reasonable.

IV. Standard of Review

[25] The parties agree, as do I, that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]).

[26] As explained in *Vavilov* at paragraphs 12-13 and 84, the reasonableness standard of review is a robust form of review that ensures that courts intervene in administrative matters only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process. It finds its starting point in the principle of judicial restraint and demonstrates a respect for the distinct role of administrative decision makers. However, it is not a "rubber-stamping" process or a means of sheltering administrative decision makers from accountability. A reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with "respectful attention" and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion.

[27] A reasonable decision is one that is both based on an internally coherent reasoning and justified in light of the legal and factual constraints that bear on the decision. The reviewing court asks whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision (*Vavilov* at pas 99).

[28] The burden is on the party challenging the decision to show that it is unreasonable. Before a decision can be set aside on this basis, the reviewing court must be satisfied that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency. Any alleged flaws or shortcomings must be more than merely superficial or peripheral to the merits of the decision. It would be improper for a reviewing court to overturn an administrative decision simply because its reasoning exhibits a minor misstep. Instead, the court must be satisfied that any shortcomings or flaws relied on by the party challenging the decision are sufficiently central or significant to render the decision unreasonable (*Vavilov* at para 100).

V. Analysis

[29] The Applicant's main argument is that neither the RPD nor the RAD considered a January 21, 2020, RAD decision in its MB9-05331 file that had been included in the Applicant's evidence on appeal [the MB9 Decision]. The Applicant argues that the RAD's failure to consider the MB9 Decision and its factual similarities and its legal analysis in its consideration of the Applicant's situation was an error that makes the Decision unreasonable.

[30] The Respondent argues that the Applicant had not raised this argument before the RAD and therefore cannot raise it or argue it now. Moreover, the Respondent argues that its not appropriate for the Applicant to impugn the Decision based on an issue that was not previously raised (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 875, at paras 44–45, 53 [*Singh*]).

[31] I agree with the Respondent

[32] It is not open to the Applicant to raise new arguments on judicial review that were not before the administrative decision-maker (*Singh*). An argument or issue is new when it raises a new basis for potentially finding an error in the decision under appeal or review beyond the grounds of appeal as framed by the parties. Genuinely new issues are legally and factually distinct from the grounds of appeal or review raised by the parties and cannot reasonably be said to stem from the issues as framed by the parties (*Saini v. Canada (Citizenship and Immigration)*, 2024 FC 1484, at 16; *Singh* at paras 29 to 58 and 59; *Alberta (Information and Privacy Commissioner) v. Alberta Teachers' Association*, 2011 SCC 61, at paras 22 to 26). The Applicant did not raise the issue they now seek to argue before the RAD, or in his Application for leave and for judicial review that commenced this proceeding.

[33] The Applicant's argument is not open for consideration in this proceeding and is rejected.

[34] The Applicant also argues that the objective documentary evidence that was led before the RPD and considered by the RAD states that individuals who show a lack of a certain level of

religious adherence face persecution by Islamic fundamentalists throughout Bangladesh. The Applicant points to two specific items in the National Documentation Package for Bangladesh and argues that the Board erred by not assessing the objective documentary evidence in its entirety when assessing the country conditions in Bangladesh for individuals who are critical of Islamic fundamentalists.

[35] The Respondent notes that the specific portions of the National Documentation Package identified by the Applicant are concerned with individuals who have publicly criticized Islamic fundamentalists. The Respondent argues that the Applicant does not have a public profile such as the individuals referred to in the cited National Documentation Package items with the result that the National Documentation Package items are not probative. The Respondent also argues that the Applicant cannot rely only on general country conditions to establish that an IFA is unsafe or unreasonable without providing sufficient evidence to show that his specific situation and circumstances will make relocation to the IFA unsafe or unreasonable (*Canada (MCI) v Egemba*, 2021 FC 1184, at paras 10-14; *Urbietta v Canada (MCI)*, 2022 FC 815, at paras 48-50).

[36] I agree with the Respondent. The RAD is presumed to have considered the entirety of the evidence before it. It is not required to specifically address each and every piece of evidence before it (*Simpson v. Canada (Attorney General)*, 2012 FCA 82, at para 10). The RAD found that the Applicant had not led evidence to establish that he is at risk in the same way a person with a public profile might be in relocating to an IFA. The RAD was not required to explicitly distinguish items in National Documentation Packages that find no application based on the evidence led in the proceeding.

[37] The Applicant's argument is therefore rejected.

VI. **Conclusion**

[38] The Applicant has not demonstrated any flaws in the Decision nor any sufficiently serious shortcomings in the RAD's assessment of their evidence such that the Decision is unjustified in light of that evidence or the applicable law. I find the RAD's decision to be reasonable and justified.

[39] This application is therefore dismissed.

[40] The parties agree that no question arises from this proceeding that should be certified. I agree.

JUDGMENT in IMM-5227-24

THIS COURT’S JUDGMENT is that:

1. The Applicant’s application for judicial review is dismissed.
2. There is no question to be certified.
3. There is no costs award to be made in this proceeding.

“Benoit M. Duchesne”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5227-24

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