

Federal Court



Cour fédérale

Date: 20250905

Docket: IMM-13039-24

Citation: 2025 FC 1465

Ottawa, Ontario, September 5, 2025

PRESENT: Mr. Justice Pentney

BETWEEN:

SUNIL CHOUDHARY

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Sunil Choudhary, is a citizen of India and a member of the Indian National Congress Party (INCP). The Applicant actively campaigned for the INCP and also held a position as Secretary of a district working committee for the Bharatiya Kisan Union (BKU), a farmers' union affiliated with the INCP.

[2] The Applicant was involved in protesting and organizing for the farmers' protests that were ongoing in India from November 2020 to December 2021. He claims that he fled India and sought refugee protection in Canada to escape persecution from a gangster who had ties to the Bharatiya Janata Party (BJP).

[3] The Applicant seeks judicial review of the decision of the Refugee Appeal Division (RAD), dismissing his appeal from the negative decision of the Refugee Protection Division (RPD). The RAD's decision rests on two key findings: that the Applicant's narrative about having been discovered in other cities in India lacked credibility, and that he had a viable Internal Flight Alternative (IFA) in India. The Applicant claims that the RAD's analysis of both questions is unreasonable.

[4] These issues are to be assessed under the framework for reasonableness review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], and confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [Mason].

[5] In summary, under the *Vavilov* framework, a reviewing court is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints (*Vavilov* at para 85; *Mason* at para 8). The onus is on the Applicant to demonstrate that "any shortcomings or flaws ... are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). Absent exceptional circumstances, reviewing courts must

not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker (*Vavilov* at para 125).

[6] The Applicant claimed that he had several encounters with a gangster referred to as "RS", who extorted him, and later assaulted him on two occasions because the Applicant refused to support the BJP party instead of the INCP, and because he interfered with RS's business interests. After the second assault, the Applicant claimed that he moved to another city to live with his wife's parents. He left that location after he saw associates of RS and feared he would be discovered. The Applicant says he then moved to New Delhi where he lived in hiding. He claims that he received threatening phone calls from RS and his associates during this time. The Applicant claims that he encountered associates of RS when he participated in farmers' protests in New Delhi, which prompted him to flee to Canada.

[7] The RAD found that the Applicant's claim to have fled to other cities in India to hide from RS and his thugs was not credible because he gave different accounts of his movements after the attacks at different stages of his claim in Canada. The RAD noted the differences between the Applicant's accounts, comparing his evidence as given at the initial interview at the Port of Entry (POE), a month later when he was interviewed by a Ministerial Delegate (MD), in his Basis of Claim form, and in his testimony before the RAD.

[8] As explanation for the discrepancies in his accounts, the Applicant claimed that he had been fearful, anxious and confused at the POE interview, and that he had difficulty understanding the translator during the MD interview. The RAD discussed and rejected the

Applicant's explanations, finding that they did not reasonably account for the differences in his narrative. The RAD observed that the Applicant had volunteered the evidence about his movements during the POE interview in response to open-ended questions, and this aspect of his narrative related to steps he took to ensure his own safety.

[9] The Applicant had claimed that he had problems with the translator during the MD interview, specifically that they diverged when he tried to explain that he had moved in with his in-laws. The RAD did not find this persuasive, however, because the notes show that the MD understood the Applicant's evidence about moving to live with his in-laws, indicating that the translation issue was resolved.

[10] The RAD found that the discrepancies between the various accounts went to the core of the Applicant's claim and that he had not reasonably explained them. Based on this analysis, the RAD found the Applicant to be credible in regard to his claim of being attacked by RS, but not in relation to his claims of having been discovered in other locations in India.

[11] The Applicant submits that the RAD's analysis is unreasonable, because it failed to consider his explanations and engaged in a selective review of the evidence. The Applicant argues that the RAD failed to consider his evidence about his emotional state during the POE interview, and did not discuss the fact that his evidence from the MD interview was consistent with his Basis of Claim form other than omitting his time spent in New Delhi. The Applicant further argues that the inconsistencies in his testimony are not substantial enough to warrant an adverse credibility finding and do not pertain to the central event upon which the claim is based.

[12] I am not persuaded by these arguments. The RAD's analysis is clear, detailed and responsive to the Applicant's evidence and submissions. The RAD was conscious of the caution that must be exercised in relying on minor discrepancies in POE narratives as compared with the more fulsome account set out in a Basis of Claim form or a claimant's testimony before the RPD. The RAD also acknowledged that any such differences must relate to crucial elements of a refugee claim rather than peripheral points. The RAD went on to find that the discrepancies "go to the core of the claim as they speak to the (Applicant's) efforts to protect himself from RS".

[13] In this case, I find that the RAD carefully compared the different accounts the Applicant provided of his movements after the attack and it explicitly considered his explanations for the discrepancies between the different accounts. The RAD then explained why it was rejecting the Applicant's arguments about the differences in his evidence. The RAD's analysis of the Applicant's credibility is deserving of deference on judicial review. The Applicant has not demonstrated any major flaw or gap in the RAD's analysis of the evidence and it is not for a reviewing Court to re-weigh the evidence: *Vavilov* at para 125.

[14] I cannot find any basis to quash the RAD's credibility finding. The fact that the Applicant believes that the RAD did not give sufficient weight to his explanations for the differences in his evidence does not make its analysis unreasonable. The RAD engaged with the evidence and explained its reasoning and the basis for its conclusion in a clear and logical manner. The RAD's decision on this question is grounded in the evidence in the record. That is all that reasonableness under the *Vavilov* framework requires.

[15] Turning to the IFA analysis, the Applicant argues that the RAD failed to consider the risks he faced in the IFA location, in light of the fact that he had been discovered in other locations in India, and that his wife and father have been repeatedly questioned by RS about his whereabouts, which indicates a continuing interest in locating him.

[16] I am not persuaded by the Applicant's arguments on the IFA analysis. The RAD's negative credibility finding about the Applicant's claim to have been pursued in other locations in India has been found to be reasonable. In addition, the RAD's analysis of the lack of evidence about RS's ability to track the Applicant to the IFA location has not seriously been challenged and this finding is an important element of the IFA analysis. The RAD discussed the evidence of RS's efforts to locate the Applicant through his wife and father and the Applicant has not pointed to any significant evidence on this point that was overlooked. It is not for a reviewing Court to re-weigh this evidence.

[17] The RAD's IFA analysis reflects the legal framework, and it considered the relevant evidence and explained its reasons for finding that the Applicant could live safely in the IFA location. The Applicant has not demonstrated any fatal flaw in the RAD's analysis on this point. I find that the RAD's analysis is reasonable, in accordance with the *Vavilov* framework.

[18] For the reasons set out above, the application for judicial review is dismissed.

[19] There is no question of general importance for certification.

JUDGMENT in IMM-13039-24

THIS COURT’S JUDGMENT is that:

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

"William F. Pentney"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13039-24

STYLE OF CAUSE: SUNIL CHOUDHARY v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

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DATE OF HEARING: AUGUST 28, 2024

JUDGMENT AND REASONS: PENTNEY J.

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APPEARANCES:

Anna Davtyan	FOR THE APPLICANT
Braelyn Rumble	FOR THE RESPONDENT

SOLICITORS OF RECORD:

EME Professional Corporation Barristers & Solicitors Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT