

Federal Court



Cour fédérale

**Date: 20250912**

**Docket: IMM-11033-24**

**Citation: 2025 FC 1517**

**Ottawa, Ontario, September 12, 2025**

**PRESENT: The Honourable Justice Fuhrer**

**BETWEEN:**

**Iqbal Singh Dhaliwal**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant Iqbal Singh Dhaliwal is a citizen of India who came to Canada in April 1992 after transiting through Brazil and the United States of America [US]. Mr. Dhaliwal's Canadian immigration history is lengthy and complex. Among other events, Mr. Dhaliwal was found inadmissible to Canada pursuant to paragraph 34(1)(f) of the *Immigration and Refugee Protection Act*, SC 2000, c 27 [IRPA], in light of his self-reported former membership in the All-

India Sikh Students' Federation [AISSF], an organization that previously was banned in India. See Annex "A" below for relevant legislative provisions.

[2] In connection with an application for Ministerial relief in 2009, made pursuant to section 42.1 of the *IRPA*, Mr. Dhaliwal recanted his previous statements to the effect that he was a member of the AISSF, and he denied any involvement with the organization. Following the issuance of an exclusion order in December 2023 based on inadmissibility for failure to comply with the *IRPA*, Mr. Dhaliwal received a notice that he was entitled to a pre-removal risk assessment [PRRA]. In his PRRA submissions, Mr. Dhaliwal asserted a risk upon return to India based on the Indian state's perception that he is a Khalistani Sikh separatist. He stated that this perception would be based on Canada's inadmissibility finding related to his previously asserted involvement with the AISSF.

[3] Mr. Dhaliwal's PRRA was denied [Decision]. The PRRA officer [Officer] determined Mr. Dhaliwal's assumption that the Indian government would seek out this information actively from Canada to confirm his pro-Khalistan stance is speculative. According to the Officer, there was little or insufficient objective evidence to support 1) that Mr. Dhaliwal would be targeted by the Indian State upon his return because of court cases that are available on the Canadian Federal Court website; 2) that he is being targeted, or will be targeted by state authorities for his support of the Khalistan movement; and 3) his status as a Khalistan supporter. Mr. Dhaliwal seeks judicial review of this Decision.

[4] Having considered the parties' written material and oral submissions, I find that the Decision is unreasonable. As I explain below, Mr. Dhaliwal has rebutted the presumption that the Officer considered all the material before them, particularly a key piece of evidence on which Mr. Dhaliwal heavily relied in his PRRA submissions. The deference owed a decision-maker whose decision is the subject of judicial review does not apply in these circumstances. Mr. Dhaliwal's judicial review application thus will be granted, with the matter to be remitted to a different decision-maker for redetermination.

[5] I summarily outline Mr. Dhaliwal's complex immigration history next and follow with the analysis leading to the grant of the judicial review application.

## II. Background

[6] Although it involved a judicial review of the rejection of a temporary resident permit [TRP] application, much of Mr. Dhaliwal's early history in Canada is summarized in this Court's decision, up to that point in time, in *Dhaliwal v Canada (Citizenship and Immigration)*, 2015 FC 762 [*Dhaliwal 2015*] at paras 4-16. Highlights are described below.

[7] Briefly, after leaving India in 1991, Mr. Dhaliwal travelled to Brazil, where he stayed for about two months. He then travelled to the US, where he claimed asylum based on fear of persecution because of his membership in the AISSF. Before a determination was made on his US refugee claim, Mr. Dhaliwal came to Canada and filed a refugee claim based on the same risk of persecution. He abandoned the claim, however, when he married a Canadian Citizen in the weeks following his arrival in Canada. His then spouse submitted a spousal sponsorship

application for permanent residence. The application was withdrawn when they divorced the following year.

[8] Over the course of almost 20 years, Mr. Dhaliwal was granted several TRPs, the first of which was granted in 1993. He married his current spouse in 1998, and a subsequent spousal sponsorship application was submitted. This sponsorship application was rejected, however, because of an earlier impaired driving conviction for which he later received a pardon. The paragraph 34(1)(f) inadmissibility determination, mentioned above, occurred in 2006 following a third spousal sponsorship application and several interviews about his involvement in the AISSF. There is no evidence before the Court that the inadmissibility determination was challenged through a judicial review application.

[9] Mr. Dhaliwal sought Ministerial relief pursuant to (then) subsection 34(2) of the *IRPA* (now subsection 42.1(1)), disavowing or recanting his involvement with the AISSF. His application for Ministerial relief was rejected. He sought judicial review of the rejection and was granted leave. The matter was remitted for redetermination on consent. On redetermination, Ministerial relief was refused again, as was the subsequent application for leave and judicial review.

[10] During his time in Canada, Mr. Dhaliwal obtained at least one Indian passport that was valid from 2009 to 2019.

[11] Before his last TRP was due to expire in 2012, Mr. Dhaliwal applied for another TRP, but the application was refused, as was the next TRP application. The last TRP refusal in 2014, in part because of the 34(1)(f) inadmissibility finding, was the subject of the *Dhaliwal 2015* decision. Despite the refused TRPs, Mr. Dhaliwal has remained in Canada, obtaining work permits.

[12] In connection with Mr. Dhaliwal's requests for Ministerial relief, the Canada Border Security Agency [CBSA] provided him with copies of the draft recommendations and an opportunity to comment on them. For a third time, Mr. Dhaliwal sought Ministerial relief and, in 2023, the CBSA again provided him with a negative draft recommendation to the Minister [CBSA 2023 Dossier]. The Minister denied relief once more in 2025. The latest rejection is the subject of a pending judicial review application that this Court is scheduled to hear on September 29, 2025.

[13] Mr. Dhaliwal voluntarily submitted a PRRA application in 2016; it was not processed, however, because he was not subject to a removal order.

[14] On December 8, 2023, an Exclusion Order was made against Mr. Dhaliwal for failure to comply with the *IRPA*. On the same date, he was notified of his entitlement to submit a PRRA application. The PRRA rejection is the subject of the judicial review application presently before the Court.

### III. Analysis

[15] I am persuaded that Mr. Dhaliwal has met his burden of showing that the Decision is unreasonable.

[16] The parties did not dispute, and neither do I, that the presumptive reasonableness standard of review applies in the matter now before the Court. To avoid judicial intervention, the challenged decision must bear the hallmarks of reasonableness – justification, transparency and intelligibility. A decision may be unreasonable if the decision-maker misapprehended the evidence before them. The party challenging the decision has the onus of demonstrating that the decision is unreasonable: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 25, 99-100, 125-126.

[17] Mr. Dhaliwal framed the issues in the matter currently before the Court as follows:

Did the Officer ignore the Applicant's risk profile as a perceived Sikh separatist without regard to the evidence that the Indian authorities can locate the publicly-available information of the Applicant's AISSF finding with ease?

Did the Officer fail to assess what the Indian authorities would do if they discovered that Canada, a country that India considers to be providing shelter for "Khalistani terrorists and extremists," has already found the Applicant to be a member of a banned Sikh separatist terrorist organization?

[18] The Respondent Minister of Citizenship and Immigration countered that the sole issue is the reasonableness of the Decision. I do not disagree. Although I might have reformulated the

issues as framed by Mr. Dhaliwal, I find it unnecessary to do so because the outcome, in my view, turns largely on question of whether the Decision was reasonable.

[19] In the course of oral argument, Mr. Dhaliwal's counsel advocated several reasons for finding the Decision unreasonable. Though mentioned only in passing in his written submissions, Mr. Dhaliwal's counsel focussed his oral argument on the Officer's failure to mention the CBSA 2023 Dossier that Mr. Dhaliwal heavily relied on in his PRRA submissions.

[20] In response, the Respondent submitted that the Officer is presumed to have considered all the evidence before them. Further, the Respondent observed in their further memorandum that the draft CBSA recommendation (i.e. the CBSA 2023 Dossier) in the application for Ministerial relief was before the Officer. This observation appears to be based on the inclusion of the CBSA 2023 Dossier in the certified tribunal record.

[21] I do not disagree with the premise that the Officer is not obligated to refer to every piece of evidence or how they dealt with it: *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) [*Cepeda*] at para 16. That said, as the Court held in *Cepeda* (at para 17), "the more important the evidence that is not mentioned specifically and analyzed in the agency's reasons, the more willing a court may be to infer from the silence that the agency made an erroneous finding of fact 'without regard to the evidence'" (citation omitted).

[22] The presumption that the Officer considered all the evidence before them is rebutted in the Decision itself. The Officer did not state that they considered all the evidence. Instead, the Officer stated what evidence was submitted and proceeded to consider it:

The applicant has submitted the following items for his PRRA:

- National Document Package (NDP)
- Articles about Sikhs being targeted/arrested in India (Social media posts)
- Documents related to another individual, Karanbir Singh
- Applicant name and court cases are available publically [*sic*] through federal court website

[23] None of the above can be said, in my view, to include the CBSA 2023 Dossier. As this Court also stated in *Cepeda* (at para 17), “when the agency refers in some detail to evidence supporting its finding, but is silent on evidence pointing to the opposite conclusion, it may be easier to infer that the agency overlooked the contradictory evidence when making its finding of fact.”

[24] I agree with Mr. Dhaliwal that the CBSA 2023 Dossier seemingly contradicts the Officer’s following finding:

“While the country condition documentation note the widespread discrimination faced by those who support the creation of Khalistan; I find the applicant has provided limited evidence for his involvement in this movement and insufficient evidence that he will [be] targeted by state authorities for his support of this movement. The applicant has provided little evidence or information to corroborate his status as a Khalistan supporter.”

The CBSA 2023 Dossier, however, concludes that:

“...Mr. Dhaliwal remained with the organization for 6 or 7 years, elevating its needs over his own safety. Notwithstanding Mr. Dhaliwal maintaining the veracity of his initial narrative for approximately 18 years in North America, he fully recanted this version of events once he realized that it was no longer in his interest



– i.e., after the CBSA disclosed its first negative draft Ministerial relief recommendation to him, in 2009. He has not provided sufficient or convincing information as to why his new story should supplant his initial account.”

[25] Paraphrasing *Cepeda* (at para 27), in my view the CBSA 2023 Dossier was so important to Mr. Dhaliwal’s case that it can be inferred from the Officer’s failure to mention it in their reasons that the finding of fact was made without regard to it. This inference is made easier to draw because the Officer’s reasons dealt with other items of evidence and, accepting that supporters of Khalistan face discrimination and mistreatment in India, concluded that “there is insufficient evidence to indicate a link between the applicant and these conditions. The applicant has not provided sufficient evidence to establish any risks under sections 96 and 97 of IRPA.”

[26] The Court in *Cepeda* acknowledged (at para 28) that “[t]here are other cases where the omission of any discussion of similar reports has been found not to vitiate the decision” (citations omitted). In those cases, however the decision-maker at least specifically mentioned or acknowledged the report to justify an inference that the decision-maker had had regard to it. That simply is not the case here. The omission is sufficient in my view to grant the judicial review.

[27] I add that the Officer also erred in considering section 96 of the *IRPA* when Mr. Dhaliwal’s circumstances entitled him to only a limited PRRA involving a section 97 risk assessment: *IRPA*, ss 112(3)(a), 113(d). I might have been prepared to consider such an error alone more in the nature of a minor misstep and not sufficiently central to warrant the Court’s intervention: *Vavilov*, above at para 100. When coupled with the Officer’s omission regarding

the CBSA 2023 Dossier, however, it supports my conclusion that the Decision is unreasonable in that it lacks sufficient justification, transparency and intelligibility.

IV. Conclusion

[28] For the above reasons, the judicial review application will be granted, with the matter remitted to a different decision-maker for redetermination.

[29] Neither party proposed a serious question of general importance for certification. I find that none arises in the circumstances.

**JUDGMENT in IMM-11033-24**

**THIS COURT'S JUDGMENT is that:**

1. The judicial review application is granted.
2. The matter will be remitted to a different decision-maker for redetermination.
3. There is no question for certification.

"Janet M. Fuhrer"

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Judge

**Annex “A”: Relevant Provisions**

***Immigration Refugee Protection Act, SC 2001, c 27***  
***Loi sur l’immigration et la protection des réfugiés, LC 2001, c 27***

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| <p><b>Security</b></p> <p><b>34 (1)</b> A permanent resident or a foreign national is inadmissible on security grounds for</p> <p>(a) engaging in an act of espionage that is against Canada or that is contrary to Canada’s interests;</p> <p>(b) engaging in or instigating the subversion by force of any government;</p> <p>(b.1) engaging in an act of subversion against a democratic government, institution or process as they are understood in Canada;</p> <p>(c) engaging in terrorism;</p> <p>[...]</p> <p>(f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c).</p> | <p><b>Sécurité</b></p> <p><b>34 (1)</b> Emportent interdiction de territoire pour raison de sécurité les faits suivants :</p> <p>a) être l’auteur de tout acte d’espionnage dirigé contre le Canada ou contraire aux intérêts du Canada;</p> <p>b) être l’instigateur ou l’auteur d’actes visant au renversement d’un gouvernement par la force;</p> <p>b.1) se livrer à la subversion contre toute institution démocratique, au sens où cette expression s’entend au Canada;</p> <p>c) se livrer au terrorisme;</p> <p>[...]</p> <p>f) être membre d’une organisation dont il y a des motifs raisonnables de croire qu’elle est, a été ou sera l’auteur d’un acte visé aux alinéas a), b), b.1) ou c).</p> |
| <p><b>Exception — application to Minister</b></p> <p><b>42.1 (1)</b> The Minister may, on application by a foreign national, declare that the matters referred to in section 34, paragraph 35(1)(b) and subsection 37(1) do not constitute inadmissibility in respect of the foreign national if they satisfy the Minister that it is not contrary to the national interest.</p>   | <p><b>Exception — demande au ministre</b></p> <p><b>42.1 (1)</b> Le ministre peut, sur demande d’un étranger, déclarer que les faits visés à l’article 34, à l’alinéa 35(1)b) ou au paragraphe 37(1) n’emportent pas interdiction de territoire à l’égard de l’étranger si celui-ci le convainc que cela ne serait pas contraire à l’intérêt national.</p>  |
| <p><b>Convention refugee</b></p> <p><b>96</b> A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,</p> <p>(a) is outside each of their countries of nationality and is unable or, by reason of</p>  | <p><b>Définition de réfugié</b></p> <p><b>96</b> A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d’être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :</p> <p>a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette</p>  |

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| <p>that fear, unwilling to avail themselves of the protection of each of those countries; or<br/> <b>(b)</b> not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.</p>   | <p>crainte, ne veut se réclamer de la protection de chacun de ces pays;<br/> <b>b)</b> soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.</p>  |
| <p><b>Person in need of protection</b></p> <p><b>97 (1)</b> A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally</p> <p><b>(a)</b> to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or<br/> <b>(b)</b> to a risk to their life or to a risk of cruel and unusual treatment or punishment if</p> <p><b>(i)</b> the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,<br/> <b>(ii)</b> the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,<br/> <b>(iii)</b> the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and<br/> <b>(iv)</b> the risk is not caused by the inability of that country to provide adequate health or medical care.</p> | <p><b>Personne à protéger</b></p> <p><b>97 (1)</b> A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :</p> <p><b>a)</b> soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;<br/> <b>b)</b> soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :</p> <p><b>(i)</b> elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,<br/> <b>(ii)</b> elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,<br/> <b>(iii)</b> la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,<br/> <b>(iv)</b> la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.</p> |
| <p><b>Restriction</b></p> <p><b>112(3)</b> Refugee protection may not be conferred on an applicant who</p> <p><b>(a)</b> is determined to be inadmissible on grounds of security, violating human or international rights or organized criminality;</p>  | <p><b>Restriction</b></p> <p><b>112(3)</b> L'asile ne peut être conféré au demandeur dans les cas suivants :</p> <p><b>a)</b> il est interdit de territoire pour raison de sécurité ou pour atteinte aux droits humains ou internationaux ou criminalité organisée;</p>   |

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| <p><b>Consideration of application</b></p> <p><b>113</b> Consideration of an application for protection shall be as follows:</p> <p>[...]</p> <p><b>(d)</b> in the case of an applicant described in subsection 112(3) — other than one described in subparagraph (e)(i) or (ii) — consideration shall be on the basis of the factors set out in section 97 and</p> <p><b>(i)</b> in the case of an applicant for protection who is inadmissible on grounds of serious criminality, whether they are a danger to the public in Canada, or</p> <p><b>(ii)</b> in the case of any other applicant, whether the application should be refused because of the nature and severity of acts committed by the applicant or because of the danger that the applicant constitutes to the security of Canada;</p> | <p><b>Examen de la demande</b></p> <p><b>113</b> Il est disposé de la demande comme il suit :</p> <p>[...]</p> <p><b>d)</b> s'agissant du demandeur visé au paragraphe 112(3) — sauf celui visé au sous-alinéa e)(i) ou (ii) —, sur la base des éléments mentionnés à l'article 97 et, d'autre part :</p> <p><b>(i)</b> soit du fait que le demandeur interdit de territoire pour grande criminalité constitue un danger pour le public au Canada,</p> <p><b>(ii)</b> soit, dans le cas de tout autre demandeur, du fait que la demande devrait être rejetée en raison de la nature et de la gravité de ses actes passés ou du danger qu'il constitue pour la sécurité du Canada;</p> |
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**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-11033-24

**STYLE OF CAUSE:** IQBAL SINGH DHALIWAL v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** CALGARY, ALBERTA

**DATE OF HEARING:** SEPTEMBER 3, 2025

**JUDGMENT AND REASONS:** FUHRER J.

**DATED:** SEPTEMBER 12, 2025

**APPEARANCES:**

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