

Federal Court



Cour fédérale

Date: 20251028

Docket: IMM-21715-24

Citation: 2025 FC 1735

Toronto, Ontario, October 28, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

AAKASH LAHAR

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Aakash Lahar, is seeking judicial review of a decision dated October 30, 2024 [Decision] whereby the Refugee Appeal Division [RAD] upheld a decision from the Refugee Protection Division [RPD] dismissing his claim for refugee protection. Mr. Lahar's claim under both section 96 and subsection 97(1) of the *Immigration and Refugee Protection*

Act, SC 2001, c 27 [IRPA] was rejected because the RAD identified a viable internal flight alternative [IFA] in Kolkata, India.

[2] Mr. Lahar first submits that the RAD misconstrued its role on appeal, notably by failing to apply the correctness standard to the RPD's findings and by dismissing the appeal based on the existence of an IFA without addressing his other arguments raised on appeal. Secondly, Mr. Lahar claims that the RAD erred in finding a viable IFA in Kolkata. He argues that his agents of persecution have both the motivation and means to harm him in Kolkata and that it would be unreasonable for him to move to that city.

[3] For the reasons that follow, Mr. Lahar's application for judicial review will be dismissed. Further to my assessment, I am satisfied that the RAD's Decision was responsive to the evidence and that its findings have the qualities that make the RAD's reasoning logical and consistent in relation to the relevant legal and factual constraints. The RAD was entitled to rule solely on the IFA, as it was a determinative issue, and Mr. Lahar failed to prove that his agents of persecution would be able and motivated to harm him in Kolkata or that he would be unable to reside there.

II. Background

A. *The factual context*

[4] Mr. Lahar is an Indian national born in Pehowa, in the state of Haryana. In February 2023, he was granted a multiple-entry visitor visa to Canada. That same month, he left India for Canada and filed a refugee claim upon arrival.

[5] Mr. Lahar alleges a fear of harm from his uncle [referred to in these reasons as SK] and his goons due to a property dispute over a family land. After his father's passing in 2006 or 2007, Mr. Lahar inherited a land co-owned by his father with SK and his father's other brothers. Of note, a plaza is currently built upon the land, although its date of construction is unknown. Mr. Lahar claims that SK has always tried to acquire the full ownership of the land but that his father refused to sell him his part. He alleges that SK mentally tortured his father until the latter had a nervous attack and passed away. After his father's death, SK's pressure and threats were targeted to Mr. Lahar.

[6] SK is allegedly a "special member" of the Bharatiya Janata Party [BJP] — the ruling political party in India — and is close to two BJP ministers. Mr. Lahar alleges that, given his links with the BJP, SK has a great influence, even on the police. Mr. Lahar also claims that SK is affiliated with gangsters and militants and has his hands in illegal business.

[7] In November 2022, SK and his goons went to Mr. Lahar's house to try to get him to sign blank papers that would make him give up the land to SK. Mr. Lahar refused and, as a result,

was beaten. He went to file a police complaint against SK, but was rather falsely accused of liquor trafficking and growing intoxicating plants on his farm, as alleged by SK. He was arrested, assaulted, and forced to admit the allegations made against him. He was released after his mother paid a bribe to the officers and was admitted to the hospital to treat his injuries.

[8] Upon his release, Mr. Lahar went to live with relatives in Delhi. However, he was tracked by the police in December 2022 and the other uncle with whom he was living at the time had to pay the police officers a bribe to avoid Mr. Lahar's arrest. With the help of an agent, Mr. Lahar left India for Canada shortly after.

B. *The RPD's Decision*

[9] In June 2024, the RPD dismissed Mr. Lahar's claim for refugee protection. Given that there was no nexus to a Convention ground, the RPD analyzed Mr. Lahar's forward-looking risk solely under section 97 of the IRPA. Despite finding that Mr. Lahar faced a personal risk in India, the RPD determined that there were nonetheless multiple credibility issues and that it was not unreasonable to expect Mr. Lahar to give up his land to avoid further persecution.

[10] First, the RPD found that Mr. Lahar's explanations concerning the absence of proof of ownership of the heritage land were "vague and speculative," notably regarding the impossibility of his other uncle to provide the documents, and "misleading and confusing" as to the role of his mother in retrieving and handling the documents. Second, the RPD concluded that the death certificate of Mr. Lahar's father had no probative value given that Mr. Lahar testified differently. The RPD thus gave it no weight in establishing that the passing of Mr. Lahar's father was due to

SK's threats. Third, the RPD determined that Mr. Lahar's testimony about SK being a member of the BJP was "speculative and vague" and noted that no evidence was provided confirming that SK was a member of the BJP, much less establishing that SK had "influential authority throughout India" so that he would pose a continued risk of harm to Mr. Lahar.

[11] Even if the RPD was satisfied that SK had taken *de facto* possession of the heritage land, it also found that any risk faced by Mr. Lahar from SK or the Haryana police acting under SK's influence was related to Mr. Lahar *formally* relinquishing the heritage land to his uncle. Relying on the decision of the Federal Court of Appeal [FCA] in *Sanchez v Canada (Citizenship and Immigration)*, 2007 FCA 99 (leave to appeal to the Supreme Court dismissed, no 32028 (September 27, 2007)), the RPD determined that giving up his share in the disputed heritage land to SK was a reasonable choice for Mr. Lahar. He, as a farmer, has other means of supporting himself. Referring to this Court's decisions in *Kenguruka v Canada (Citizenship and Immigration)*, 2014 FC 895 and *Khair v Canada (Citizenship and Immigration)*, 2023 FC 374, the RPD further noted that the right to private property is not a fundamental right and that, in Mr. Lahar's circumstances, giving up such a right would not involve a deprivation of his fundamental human rights. The RPD also observed that, by leaving India, Mr. Lahar has already forfeited the land "in an informal sense" and that it was clear he does not currently have normal use and access to the land. In these circumstances, said the RPD, it was reasonable to expect Mr. Lahar to formally forfeit the land.

[12] In conclusion, the RPD found that it was reasonable to expect Mr. Lahar to transfer his property to his uncle SK and that, if he did, he would not face a prospective, forward-looking,

personalized risk in India. Given this finding, the RPD did not proceed with an analysis of state protection or IFA.

C. *The RAD Decision*

[13] Mr. Lahar filed an appeal to the RAD of the decision of the RPD dismissing his refugee claim. During the appeal process, the RAD issued a notice [Notice] to Mr. Lahar and the Respondent, the Minister of Citizenship and Immigration [Minister], indicating that it would be considering new issues on appeal, namely, (i) the availability of adequate state protection, (ii) the existence of an IFA in Kolkata, in the state of West Bengal, (iii) credibility issues regarding medical notes submitted by Mr. Lahar, and (iv) consideration of evidence about sitting members in West Bengal available online. In his reply to the Notice, Mr. Lahar provided additional submissions.

[14] In the Decision, the RAD upheld the RPD's finding that Mr. Lahar was not a Convention refugee nor a person in need of protection but so concluded based on the existence of a viable IFA for Mr. Lahar in Kolkata. As such, the RAD did not address Mr. Lahar's arguments regarding the alleged errors of the RPD in assessing his credibility.

[15] Regarding the first prong of the IFA test, the RAD determined that Mr. Lahar had not established that SK, together with the BJP or the police, has the ability and the desire to find Mr. Lahar in Kolkata.

[16] With regards to SK, the RAD first found that it was reasonable for Mr. Lahar to transfer legal ownership of his land to SK. The RAD also concluded that SK would have some, but not much, secondary motivation based on revenge to persecute or harm Mr. Lahar in Kolkata, a city located approximately 1,700 kilometres from his hometown. However, the RAD further determined that there was no evidence that SK had influence or control over government authorities or the police in the Kolkata area, nor that he had independent means to pursue Mr. Lahar in that city.

[17] As for the BJP, the RAD noted that the BJP has far less power and influence in the state of West Bengal (where Kolkata is located) than in the state of Haryana. As such, the RAD found that there was insufficient evidence to suggest that SK was so influential with powerful BJP officials that the party would use its resources to help him pursue Mr. Lahar in Kolkata — a location where the BJP does not generally represent the people — just to take revenge on Mr. Lahar. This would be especially true in a situation when Mr. Lahar would have already surrendered legal ownership of the land to SK.

[18] Turning to the police, the RAD accepted that in a place where the BJP has strong influence over the state police, like Haryana, the BJP could cause the police to help SK in harming Mr. Lahar. However, the RAD noted that the BJP does not have a similar kind of power in Kolkata and the state of West Bengal. The RAD further found that there was no evidence that the Haryana police would be motivated to find Mr. Lahar outside of Haryana or that any other police force in India has ever looked for Mr. Lahar or would be motivated to find him. The RAD thus concluded that no police force in India had the motivation to pursue Mr. Lahar in Kolkata,

either because they would suspect Mr. Lahar of a crime, even if based on false accusations, or in order to help SK or the BJP.

[19] Turning to the second prong of the IFA test, the RAD found that it was reasonable in the circumstances for Mr. Lahar to move to Kolkata. The majority religion in the city is Hindu, like Mr. Lahar's, and Hindi, spoken by Mr. Lahar, is one of the two most spoken languages in Kolkata. The RAD was satisfied that Mr. Lahar had all the necessary experience, resources, and practical knowledge of how to navigate new situations to be able to find housing and employment in Kolkata. Relying on *Lal v Canada (Citizenship and Immigration)*, 2024 FC 1109, at paragraphs 37–38, the RAD also concluded that Mr. Lahar did not provide any evidence to show how he falls within a category of persons who would be entered into a police or government tracking database.

[20] The RAD thus determined that notwithstanding whether Mr. Lahar's claim was assessed under section 96 or 97 of IRPA, he had a viable IFA in Kolkata and confirmed the RPD's decision that he was not a Convention refugee or person in need of protection.

D. *Standard of review*

[21] The Supreme Court of Canada's landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] established a presumption that reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at para 35 [Pepa]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [Mason]), unless the

circumstances lend themselves to the application of one of the recognized exceptions to this presumption (*Canadian Society of Authors, Composers and Music Publishers v Entertainment Software Association*, 2022 SCC 30 at para 28; *Vavilov* at paras 33–64, 69–72).

[22] The parties, and the Court, agree that the standard of reasonableness applies to the Decision and to findings regarding the existence of a viable IFA and that none of the *Vavilov* exceptions applies (*Hardono v Canada (Citizenship and Immigration)*, 2025 FC 1707 at para 17 [*Hardono*]; *Reyes c Canada (Citoyenneté et Immigration)*, 2025 CF 1248 at para 15; *Canelas Galindo c Canada (Citoyenneté et Immigration)*, 2025 CF 1117 at para 14; *Mba v Canada (Citizenship and Immigration)*, 2025 FC 1098 at para 13 [*Mba*]; *Gonzalez Vargas v Canada (Citizenship and Immigration)*, 2025 FC 419 at para 19; *Vishist v Canada (Citizenship and Immigration)*, 2024 FC 1908 at para 17; *Sachdeva v Canada (Citizenship and Immigration)*, 2024 FC 1522 at para 10; *Valencia v Canada (Citizenship and Immigration)*, 2022 FC 386 at para 19 [*Valencia*]; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 at para 17 [*Singh 2020*]).

[23] Where the applicable standard of review is reasonableness, the role of a reviewing 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” and is “justified in relation to the facts and law that constrain the decision maker” (*Pepa* at para 46; *Mason* at para 64; *Vavilov* at para 85). The reviewing court must therefore ask whether the “decision bears the hallmarks of reasonableness—justification, transparency and intelligibility” (*Vavilov* at para 99, citing notably *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 74).

[24] Such a review must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a “reasons first” approach and begin its inquiry by examining the reasons provided with “respectful attention,” seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Pepa* at paras 46–47; *Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene “only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process” (*Vavilov* at para 13).

[25] The standard of reasonableness is rooted in the principle of judicial restraint and deference, and it requires reviewing courts to show respect for the distinct role that the legislature has chosen to give to administrative decision makers, more particularly on findings of fact and the weighing of evidence (*Mason* at para 57; *Vavilov* at paras 13, 24, 46, 75). Absent exceptional circumstances, a reviewing court will not interfere with an administrative decision maker’s factual findings (*Vavilov* at paras 125–126, citing *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55; *Doyle v Canada (Attorney General)*, 2021 FCA 237 at para 3).

[26] The onus is on the party challenging the decision to prove that it is 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).

III. Analysis

A. *The RAD did not err by failing to address the RPD's credibility findings*

[27] Mr. Lahar first argues that the RAD misconstrued its role on appeal. He claims that the RAD erred by failing to make a specific finding on his credibility given the RPD's concerns in that regard and that, by doing so, it erroneously upheld the credibility findings of the RPD on the reasonableness standard. In support of his position, he relies heavily on the FCA decision in *Huruglica v Canada (Citizenship and Immigration)*, 2016 FCA 93 [*Huruglica*]. Given his extensive argument on credibility submitted to the RAD on appeal, he complains that he does not know whether his submissions in that regard have been admitted or dismissed by the RAD.

[28] I am not convinced by Mr. Lahar's arguments.

[29] I do not dispute that upon review of a RPD decision, the RAD must apply the correctness standard (*Kreishan v Canada (Citizenship and Immigration)*, 2019 FCA 223 at para 44, application for leave to appeal to the Supreme Court dismissed, no 38864 (March 5, 2020) [*Kreishan*]; *Huruglica* at paras 78, 103; *Rozas Del Solar v Canada (Citizenship and Immigration)*, 2018 FC 1145 at para 125 [*Rozas Del Solar*]). This means that, while it is not a *de novo* appeal, the RAD must still conduct its own analysis to determine whether it ought to intervene (*Huruglica* at paras 79, 103). As such, the RAD is entitled to perform an independent assessment of the record before the RPD (*Rozas Del Solar* at para 122). In other words, "[c]orrectness before the RAD offers the appellants the hope that a second hearing, albeit on the same record and without oral evidence, will generate a different result" (*Kreishan* at para 45).

[30] In the case at hand, there is no indication that the RAD applied a standard other than that of correctness. In fact, the RAD itself noted in the Decision that its role “is to decide if the RPD made the correct decision for the correct reasons.” However, the RAD determined that it did not need to address the credibility findings made by the RPD, because the existence of an IFA in Kolkata was determinative, even if the RAD was to assume that Mr. Lahar’s evidence was credible. I pause to point out that, contrary to Mr. Lahar’s suggestion, the failure to address an issue does not mean that it was upheld or accepted by the RAD, even less so on a reasonableness standard. In fact, in this case, it is clear from the reasons that the RAD did not rule on the RPD’s adverse credibility findings and even assumed, for the purpose of its IFA analysis, that Mr. Lahar was credible (Decision at para 8). The RAD never adopted the RPD’s adverse credibility findings.

[31] Mr. Lahar further argues that when the RAD determined that credibility was not at issue in appeal, it was required to provide a rationale for reaching that conclusion. With respect, I do not agree that the RAD erred in its treatment of the RPD’s credibility findings.

[32] I appreciate that to be reasonable, an administrative decision needs to be justified (*Vavilov* at para 105). However, I find that the RAD reasonably found and justified why the RPD’s credibility findings were not relevant here, as the determinative or key issue was the existence of a viable IFA in Kolkata. This is consistent with the caselaw: the existence of an IFA is fatal to a claim for refugee protection (see, for example, *Wu v Canada (Citizenship and Immigration)*, 2022 FC 1123 at paras 8–10; *Barragan Gonzalez v Canada (Citizenship and Immigration)*, 2015 FC 502 at para 45).

[33] This Court has held on numerous occasions that the RAD is not required to assess an applicant's credibility if their evidence, whether credible or not, would not establish their claim (*Vidal Fernandez v Canada (Citizenship and Immigration)*, 2024 FC 3 at paras 26–36; *El-Hadi v Canada (Citizenship and Immigration)*, 2021 FC 1323 at paras 43–52 [*El-Hadi*]; *Etienne v Canada (Citizenship and Immigration)*, 2019 FC 1461 at para 15). Moreover, the existence of an IFA is sufficient to dispose of a refugee claim and to conclude that an applicant is neither a refugee nor a person in need of protection, regardless of the merits of other aspects of the claim (*Guadarrama Vazquez v Canada (Citizenship and Immigration)*, 2024 FC 462 at para 24 *in fine*; *Salman v Canada (Citizenship and Immigration)*, 2021 FC 1396 at para 24; *Unegbu v Canada (Citizenship and Immigration)*, 2021 FC 179 at para 2; *Khan v Canada (Citizenship and Immigration)*, 2020 FC 1101 at para 24 [*Khan*]; *Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at para 7 [*Olusola*]).

[34] Because it found that Mr. Lahar had a viable IFA in Kolkata, there was no need for the RAD to address whether it agreed or not with the credibility findings of the RPD. As correctly stated by the Minister, *Huruglica* does not stand for the proposition that the RAD must assess all aspects of the RPD's decision, including credibility findings (*El-Hadi* at para 48). Here, the RAD reasonably found that it did not need to address the RPD's credibility findings when it found the existence of a viable IFA, as this was determinative of the appeal. The words of Justice Nicholas McHaffie in *Khan* apply *mutadis mutantis*:

[24] Mr. Khan raised a concern that the RAD did not address the various other issues that were argued before it, namely the RPD's credibility finding and its conclusions on adequate state protection. However, having concluded that there was a viable IFA, the RAD was under no obligation to address the remaining issues, which

could not have affected the outcome. As the existence of an IFA means that a person is neither a “Convention refugee” or a “person in need of protection,” a finding of an IFA is fatal to a claim for refugee protection, and the RAD need not proceed with the analysis of other issues.

[Citations omitted.]

[35] In support of his position, Mr. Lahar repeatedly referred to extracts from *Vavilov*, *Huruglica*, and this Court’s decision in *Gomes v Canada (Citizenship and Immigration)*, 2020 FC 506 [*Gomes*]. With respect, Mr. Lahar’s submissions are based on an erroneous reading of these precedents. True, the reasonableness of a decision may be jeopardized where the decision maker does not grapple with key issues raised by a party (*Vavilov* at para 128). This is one of the legal and factual constraints that bear on an administrative decision. However, this principle is anchored in the duty of procedural fairness (*Vavilov* at para 127). To be justified and transparent, an administrative decision must have given the individuals affected by a decision the opportunity to present their case fully and fairly. Nothing in *Vavilov* or *Huruglica* can be said to require or oblige an administrative decision maker like the RAD to address issues found to be irrelevant to the decision at stake. This would in fact “needlessly compromise important values such as efficiency and access to justice” (*Vavilov* at para 128; see also *Gomes* at para 32).

[36] Turning to *Gomes*, Mr. Lahar ignores the context of that decision, which is easily distinguishable from his situation. In *Gomes*, Justice Peter Pamel (as he then was) was faced with a RAD’s decision containing a very limited analysis which summarily adopted the RPD’s findings. It was the paucity of reasons and the lack of elaboration that led the Court to quash the RAD’s decision for failing to meet the requisite standard of justification, transparency and intelligibility (*Gomes* at paras 49–56). This particular context led the Court to conclude that the

RAD decision was unreasonable in simply stating that it agreed with the RPD without any meaningful analysis. This is clearly not the case here.

[37] I acknowledge that in *Green v Canada (Citizenship and Immigration)*, 2016 FC 698 [*Green*], Justice Patrick Gleeson granted judicial review in a case where the RPD made findings on both credibility and state protection, but where the RAD declined to take a clear position on the credibility findings and affirmed the RPD's conclusion that the applicant had failed to rebut the presumption of state protection. However, contrary to the case at hand, in *Green*, the applicant's credibility was a key aspect of the state protection determination so that Justice Gleeson found that the RAD was required to make a finding with respect to credibility. Like Justice Catherine Kane in *El-Hadi*, I do not find that this is the case here. I also cannot find that the RAD made any veiled credibility finding in its reasons with respect to Mr. Lahar.

B. *The RAD's IFA determination is reasonable*

[38] Turning to the IFA finding itself, I am of the view that the RAD correctly applied the two-prong IFA test and reasonably concluded that Mr. Lahar may avail himself of a viable IFA in Kolkata. Mr. Lahar failed to discharge his onus to convince the RAD that his uncle, the BJP, or the Haryana police had both the means and motivation to pursue him in Kolkata. Likewise,

Mr. Lahar has not convincingly demonstrated that the RAD erred in its analysis of the reasonableness of relocating to Kolkata.

(1) The applicable test on IFA determinations

[39] I have recently summarized and reiterated the applicable test on IFA determinations in *Hardono* at paragraphs 24–26 and *Mba* at paragraphs 21–25. This remains applicable, and I will reiterate these principles for convenience purposes.

[40] In *Singh 2020*, the Court reminded that “the analysis of an IFA is based on the principle that international protection can only be offered to refugee protection claimants in cases where the country of origin is unable to provide to the person requesting refugee protection adequate protection everywhere within their territory” [emphasis added] (*Singh 2020* at para 26). If a refugee claimant has a viable IFA, this will negate a claim for refugee protection under either section 96 or 97 of the IRPA, regardless of the merits of other aspects of the claim (*Olusola* at para 7).

[41] The test to determine the existence of a viable IFA comes from *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA), [1992] 1 FC 706 (FCA) and *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589 (FCA) [*Thirunavukkarasu*]. These decisions from the FCA state that two criteria must be established, on a balance of probabilities, in order to find that a proposed IFA is reasonable: (i) there must be no serious possibility of the claimant being subject to persecution or harm in the part of the country in which the IFA exists; and (ii) it must not be

unreasonable for the claimant to seek refuge in the IFA, upon consideration of all their particular circumstances.

[42] The threshold to satisfy the second prong of the IFA test and determine that an IFA is unreasonable is very high: there must be actual and concrete evidence of conditions that would jeopardize an applicant's life and safety in travelling or temporarily relocating to the proposed safe area (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA), [2001] 2 FC 164 (FCA) at para 15 [*Ranganathan*]; *Verma v Canada (Citizenship and Immigration)*, 2025 FC 693 at para 13).

[43] When an IFA is established, the onus is on the refugee claimant to demonstrate that the IFA is inadequate (*Thirunavukkarasu* at para 12; *Salaudeen v Canada (Citizenship and Immigration)*, 2022 FC 39 at para 26; *Manzoor-Ul-Haq v Canada (Citizenship and Immigration)*, 2020 FC 1077 at para 24; *Feboke v Canada (Citizenship and Immigration)*, 2020 FC 155 at paras 43–44).

- (2) The RAD reasonably concluded that there is no serious possibility of persecution in the suggested IFA

[44] First, Mr. Lahar argues that the RAD erroneously relied on *Begum v Canada (Citizenship and Immigration)*, 2024 FC 1517 to find that it was reasonable for him to give up his land to avoid further persecution. He argues that contrary to the RAD's finding, he is not able to legally transfer the land to his uncle, because that would require his physical presence in the city. Even if he relocates to the IFA in Kolkata and appoints his mother as a power of attorney to sell the

land on his behalf, he explains that this would require a notary attestation that would disclose his location and put him at risk.

[45] However, there is no proof that Mr. Lahar raised these arguments in his submissions in reply to the Notice. The Court has the discretionary power to consider a new issue in the context of a judicial review, but it is generally not appropriate to do so when the issue could have been raised before the decision maker, as is the case here (*Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at paras 22–25 [*Alberta Teachers*]; *Zoghbi v Air Canada*, 2024 FCA 123 at para 26, application for leave to the Supreme Court dismissed, no 41471 (April 17, 2025) [*Zoghbi*]; *Klos v Canada (Attorney General)*, 2023 FCA 205 at para 8 [*Klos*]). As such, notwithstanding whether the underlying facts are true, I decline to exercise my discretionary power to consider them to assess whether RAD's finding about a viable IFA in Kolkata was reasonable.

[46] Mr. Lahar also submits that it was unreasonable for the RAD to conclude that he would be safe in Kolkata since the BJP is not in power there while also accepting that Mr. Lahar was previously found in Delhi where the BJP is also not in power. He submits that if the RAD's reasoning is correct, the agents of persecution should not have found him in Delhi. With respect, I read the RAD's conclusion as rather being that Delhi is located next to the state of Haryana, where the BJP has strong control, as opposed to Kolkata which is situated 1,700 kilometres away from Haryana.

[47] I accept Mr. Lahar's argument that distance cannot be the sole factor to consider to determine if an IFA is viable, but it certainly is a relevant factor in the analysis (*Ntumba c*

Canada (Citoyenneté et Immigration), 2025 CF 1393 at para 47; *Miranda Martinez v Canada (Citizenship and Immigration)*, 2025 FC 416 at para 28; *Mba* at para 33; *Okohue v Canada (Citizenship and Immigration)*, 2016 FC 1305 at para 16; *Cadena Ramirez v Canada (Citizenship and Immigration)*, 2010 FC 1276 at para 23 [*Cadena Ramirez*]). Here, the RAD did not rely exclusively on the distance between the state of Haryana and Kolkata to determine whether the IFA was viable or not. The RAD rather found that to the extent that the agents of persecution had influence on the Indian state apparatus, it was confined to the local area of Haryana and surrounding areas, like Delhi (*Cadena Ramirez* at para 23). This conclusion is reasonable in light of the evidence.

[48] Mr. Lahar further argues that it is quite possible that in future elections, the BJP could gain power in Kolkata and that as such, the BJP could cause the police to help the uncle in locating him. With respect, and as mentioned during the hearing, this is highly speculative. The RAD cannot be faulted for not considering all possible political changes of circumstances that could happen in the future.

[49] Mr. Lahar complains that there are contradictions in the Decision which make it “erroneous and confusing.” He points out to paragraphs 27 and 36 of the Decision. With respect, I fail to see how those paragraphs contradict one another. The RAD accepts that in a place where the BJP has power, the party could cause the police to help Mr. Lahar’s uncle in finding him but concludes that Kolkata is not such a place. The RAD then goes on to conclude that although the BJP and police forces might have the ability to pursue him in Kolkata, none of them have the motivation to do so.

[50] I must stress that a reasonableness review is not a “line-by-line treasure hunt for error” (*Vavilov* at para 102) and the Court must approach the reasons with a view to “understanding, not to puzzling over every possible inconsistency, ambiguity or infelicity of expression” (*Canada (Minister of Citizenship and Immigration) v Ragupathy*, 2006 FCA 151 at para 15). Here, I find no inconsistency in the RAD’s conclusion about the absence of the BJP motivation to find Mr. Lahar in Kolkata.

[51] Mr. Lahar finally argues that his agents of persecution “are continuously harassing [his] family” and are “still hunting [him] down.” He maintains that the RAD ignored the “crucial fact” laid out in his amended Basis of Claim form that the police had visited Mr. Lahar’s house in May 2024 to question his mother about his whereabouts. I also note that he mentioned this while testifying before the RPD.

[52] It is well accepted that an administrative decision maker’s failure to mention evidence does not necessarily make a decision unreasonable (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 1554 at para 35 [*Singh 2023*]; *Valencia* at para 25; *Khair v Canada (Citizenship and Immigration)*, 2021 FC 160 at para 48; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 24). It is also a well-settled principle that administrative decision makers are presumed to have weighed and considered all the evidence before them unless proven otherwise (*Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 36, application for leave to the Supreme Court dismissed, no 36508 (November 19, 2015); *Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 (FCA) at para 1; *Singh 2023* at para 35). In the same vein, a failure to mention a particular piece of evidence does not mean that it was ignored (*Newfoundland and Labrador Nurses’ Union v*

Newfoundland and Labrador (Treasury Board), 2011 SCC 62 at para 16; *Singh 2023* at para 35).

It is true that, when an administrative decision maker does not properly deal with evidence squarely contradicting its findings of fact, the Court may intervene and infer that the decision maker overlooked the contradictory evidence when reaching its conclusion (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9–10; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC), [1998] FCJ No 1425 (QL) at para 17).

[53] However, the failure to consider specific evidence must be viewed in context, and it is only when the evidence is critical and squarely contradicts the decision maker's conclusion that the reviewing court may determine that the tribunal disregarded the material before it (*Torrance v Canada (Attorney General)*, 2020 FC 634 at para 58). This is not the case here. The fact that the police allegedly visited Mr. Lahar's house in Haryana in May 2024 does not contradict the RAD's finding that neither his uncle, the BJP, nor the police would have both the means and the motivation to find him in the IFA in Kolkata should he relocate there. In other words, the visit to his mother's home in Haryana does not say anything about the motivation of Mr. Lahar's agents of persecution to pursue him in Kolkata.

[54] Mr. Lahar had the onus of convincing the RAD that SK, the BJP, or the police had both the means and the motivation to persecute him in Kolkata. The RAD found that SK may have the motivation but did not have the means, and that the BJP and the police may have the means but lacked the motivation. Considering the evidence, I find that the RAD reasonably found that Mr. Lahar had failed to discharge his onus.

[55] It is not the task of a reviewing court to reweigh the evidence on the record, or to reassess the decision maker's findings of fact and substitute its own. As a result, absent exceptional circumstances, a reviewing court should not overturn findings of fact (*Vavilov* at para 125). Rather, it must consider the reasons as a whole, together with the record (*Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 53), and limit itself to determining whether they are irrational or arbitrary. In the present case, there are no such irrational or arbitrary conclusions.

(3) The Decision is reasonable in concluding that a viable IFA exists in Kolkata

[56] Turning to the second prong of the IFA test, Mr. Lahar argues that it would not be reasonable for him to relocate to Kolkata. He claims that he doesn't speak Bengali and that the tenant system in India would require him to register with the local police. He says that the local police would necessarily reach out to the Haryana police who would thus become aware of his location. He points the Court to an NDP item 10.13 dated November 2024.

[57] Once again, I am not convinced by Mr. Lahar's submissions.

[58] There are two main concerns with these submissions. First, and as noted by the RAD, Mr. Lahar did not make any submission related to the viability of a relocation to Kolkata in his reply to the Notice (*Alberta Teachers* at paras 22–25; *Zoghbi* at para 26; *Klos* at para 8). Second, Mr. Lahar cites in his memorandum excerpts of the NDP item 10.13 dated November 2024, but the document in its entirety has not been filed with the Court and more importantly, is dated after the Decision.

[59] As such, I cannot entertain these arguments any further, as this evidence was not before the decision maker when it issued the Decision. In any event, even if I did, I would have been satisfied that the RAD adequately reviewed Mr. Lahar's personal circumstances, such as religion, language spoken, and professional capabilities, and reasonably concluded that it would not be unreasonable for him to relocate to Kolkata. The threshold to determine that an IFA is unreasonable is very high, and it was not met here (*Ranganathan* at para 15).

IV. Conclusion

[60] For the reasons set forth above, Mr. Lahar's application for judicial review is dismissed. I am satisfied that the Decision was responsive to the evidence, and that its findings regarding the IFA in Kolkata have the qualities that make the RAD's reasoning logical and consistent in relation to the relevant legal and factual constraints. Mr. Lahar has failed to discharge his onus of demonstrating that there are fundamental flaws in the RAD's analysis.

[61] There are no questions of general importance to be certified.

JUDGMENT in IMM-21715-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.
2. There is no question of general importance to be certified.

“Denis Gascon”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-21715-24

STYLE OF CAUSE: AAKASH LAHAR v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 20, 2025

JUDGMENT AND REASONS: GASCON J.

DATED: OCTOBER 28, 2025

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