

Federal Court



Cour fédérale

Date: 20251117

Docket: IMM-11402-22

Citation:2025 FC 1833

Ottawa, Ontario, November 17, 2025

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

**SATWINDER SINGH SAINI
RAJWINDER KAUR SAINI .**

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants are a married couple who filed refugee claims in Canada based on their fear of the police in India. The Refugee Protection Division (“RPD”) refused their claims, and the Refugee Appeal Division (“RAD”) upheld the refusal. The Applicants are challenging the RAD’s refusal on judicial review.

[2] The Applicants raise a number of arguments challenging the merits of the RAD's decision. The parties agree, as do I, that I ought to review the RAD's decision on a reasonableness standard (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653).

[3] The RAD's finding that the Applicants had a viable internal flight alternative ("IFA") in Mumbai was based on its conclusion that the agents of persecution were the local police in the Applicants' hometown in the Punjab, and those police lacked motivation to seek them out in Mumbai. The RAD found the following parts of the Applicants' allegations not to be credible: i) that Mr. Saini had relocated to Delhi from the Punjab; ii) that Mr. Saini was attacked by the police and the Central Investigation Bureau ("CIB") in Delhi; and iii) that the CIB was involved in their case at all.

[4] The Applicants argue that the RAD's credibility findings are flawed. The Applicants also argue that the RAD failed to evaluate Ms. Saini's residual claim as a woman who had been assaulted by the police and failed to apply the *Chairperson's Guidelines 4: Gender Considerations in Proceedings Before the Immigration and Refugee Board* when evaluating her knowledge of the CIB. Lastly, the Applicants argue that the RAD failed to consider their argument that they would have to register their tenancy in the proposed IFA and therefore, could be found by the local police in the IFA.

[5] The Applicants have not persuaded me that there is a sufficiently serious shortcoming in the RAD's reasons. As I will explain, the RAD's decision is transparent, intelligible and justified

in light of the record before it. I see no basis to interfere with the decision. Accordingly, the application for judicial review is dismissed.

II. Background Facts and Procedural History

[6] The Applicants are citizens of India. The Applicants allege that Mr. Saini was falsely accused by the police as having ties to a terrorist organization in Kashmir. In 2014, Mr. Saini's business was raided by the police in his hometown in the Punjab; he was beaten, interrogated and detained by the local police.

[7] The RAD found that a few months later in June 2015, Mr. Saini travelled to Canada as a visitor. I note that the RAD did not accept that Mr. Saini relocated to Delhi prior to leaving for Canada. A key issue in dispute relates to the RAD's finding that Mr. Saini did not relocate to Delhi and therefore, was not targeted by the police or the CIB in Delhi.

[8] Approximately two years after arriving in Canada, Mr. Saini made a claim for refugee protection. While Mr. Saini was in Canada on his own, the police continued to visit his wife in their hometown asking about Mr. Saini's whereabouts. On two occasions, Ms. Saini was detained and brutally assaulted by the police. After the second incident, Ms. Saini fled to Canada in June 2018. By this time, her husband had already filed a refugee claim. Shortly after arriving, Ms. Saini also made a claim for refugee protection. Since the Applicants have been in Canada, the Applicants' family in the Punjab has been contacted by the police who have been looking for the Applicants.

[9] The RPD heard the Applicants' claims together over multiple sittings: January 20, 2021, February 10, 2021, April 12, 2021, and December 16, 2021. Both Applicants testified at the RPD hearing.

[10] In March 2022, the RPD dismissed their claims, finding their allegation about Mr. Saini's relocation to Delhi to not be credible and that there was a viable IFA in Mumbai.

[11] The Applicants appealed the RPD's refusal to the RAD. On October 22, 2022, the RAD dismissed the Applicants' appeal. The RAD confirmed the RPD's finding that the agents of persecution were the local police in the Applicants' hometown in Punjab and that they did not have the motivation to seek out the Applicants in Mumbai, the proposed IFA.

III. Analysis

A. *Credibility Findings*

[12] The Applicants challenge the RAD's credibility findings on two grounds. First, they argue the RAD was unreasonable in its treatment of the RPD's failure to consider an aspect of Mr. Saini's testimony. The RAD agreed that the RPD did not reference Mr. Saini's testimony that he had been attacked by the police and the CIB in Delhi. The Applicants argue that because the RAD found this was an error by the RPD, the RAD could not go on to uphold the RPD's IFA determination.

[13] I do not agree. The RAD independently assessed the evidence as required and dealt with the RPD's error. The RAD found that the RPD's error was not determinative because the RPD,

like the RAD, did not accept the Applicants' testimony that there had even been a relocation to Delhi.

[14] The RAD found the Applicants' testimony on the issue of relocation, and therefore any attacks that took place after relocation, to not be credible. The RAD relied on the strong emphasis of the fear of only the local Punjab police in the Applicants' refugee forms ("BOC") and that no updates concerning the police or CIB in Delhi were made to the BOC in the long period before the hearing.

[15] The RAD found that the Applicants' claim was framed as one against the "local police" in the Punjab throughout the refugee narrative. The "local police" in their hometown were described as the agents of persecution. There was no mention of a move to Delhi in the narrative of the BOC or in response to the specific question about relocation. Additionally, the BOC did not mention the CIB as an agent of persecution.

[16] Mr. Saini explained that he forgot to include the relocation in his BOC due to fear. The RAD did not find Mr. Saini's explanation to be credible, in particular because no update was made to the BOC in the long period between filing (2017) to the first sitting of the hearing (2021).

[17] Second, the Applicants argue, in a general way, that the RAD's overall findings on credibility relied on a microscopic analysis of the evidence. I do not agree. I find the RAD's reasons explain the centrality of the omission of Mr. Saini's relocation to Delhi and why, in this

case, it found these omissions significant enough to undermine the credibility of particular allegations, taking into account the limited evidence in the record.

B. *Gender and the CIB and a Residual Claim*

[18] The Applicants claim that the CIB along with the local police were the agents of persecution. The RAD did not accept that the CIB was an agent of persecution. As noted, the RAD did not accept as credible Mr. Saini's testimony about the involvement of the CIB in Delhi. The RAD also found that there was limited information provided on the Applicants' knowledge of the CIB's involvement in their case.

[19] The Applicants challenge the RAD's treatment of Ms. Saini's evidence on the CIB. In particular, the Applicants are concerned with the RAD's comment that it would have expected that someone with Ms. Saini's education to better explain the functioning of the CIB. I agree with the Applicants that this comment – which is a plausibility finding – is not justified in light of Ms. Saini's evidence, nor is it the sort of plausibility finding that could be described as the “clearest of cases” or “outside of the realm of what could reasonably be expected” (*Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 at para 7).

[20] That being said, I do not find this problem in the RAD's reasoning to be determinative in these circumstances. Ms. Saini's inability to describe in detail the functioning of the operations at the CIB was not the principal basis on which the RAD relied to find that the CIB was not an agent of persecution. The RAD explained that there was insufficient evidence to connect the CIB to the Applicants' case. The RAD found the evidence on Mr. Saini's attack by the CIB in Delhi

to not be credible and the other testimony provided by the Applicants on the involvement of the CIB generally to be speculative and not consistent with the manner in which the Applicants were treated in India.

[21] The Applicants also argue that due to the nature of the violence Ms. Saini experienced by the local police when she was detained, the RPD or RAD ought to have considered a residual claim based on gender. This issue was not raised at either tribunal, nor was it well-developed before me. I do not find that the Applicants have shown in this case, based on the limited argument and evidence, that this sort of analysis was required given the RAD's IFA finding – that the local police in the Applicants' hometown are the only agents of persecution, and they are not motivated to seek the Applicants in the proposed IFA.

C. *IFA Finding*

[22] Lastly, the Applicants argue that the RAD failed to consider their arguments on the ability of the agents of persecution to locate them because of the requirement that they register their tenancy in their new city upon return to India. The RAD found that the local police would not have the motivation to seek out the Applicants in the proposed IFA. Therefore, even if the RAD accepted the Applicants' evidence that the local police had the ability to track the Applicants, in these circumstances, it would not have affected that the RAD's determinative finding that the local police lack the motivation to seek out the Applicants in the IFA location.

D. *Disposition*

[23] In conclusion, I am satisfied that the RAD explained its reasons for dismissing the Applicants' appeals in a transparent and intelligible way. I see no basis to interfere with the RAD's decision. I dismiss the application for judicial review. Neither party raised a question for certification, and I agree none arises.

JUDGMENT in IMM-11402-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed; and
2. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-11402-22

STYLE OF CAUSE: SATWINDER SINGH SAINI ET AL. v. MCI

PLACE OF HEARING: VIDEOCONFERENCE

DATE OF HEARING: JULY 8, 2025

**REASONS FOR JUDGMENT
AND JUDGMENT:** SADREHASHEMI J..

DATED: NOVEMBER 17, 2025

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