Federal Court Cour fédérale

Date: 20260121

Docket: IMM-21843-24

Citation: 2026 FC 87

Ottawa, Ontario, January 21, 2026

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

KULWINDER SINGH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, a citizen of India, filed a refugee claim claiming that he feared members of the Bharatiya Janata Party [BJP] because of his participation in farmers' protests. The Refugee Protection Division [RPD] dismissed the Applicant's claim, finding that he had a viable Internal Flight Alternative [IFA] in Mumbai.

[2] On appeal, the Refugee Appeal Division [RAD] refused to admit new evidence because it did not meet the legislative requirements of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*]. Further, the RAD upheld the RPD's IFA determination, concluding that the agents of harm were not motivated to pursue the Applicant in Mumbai and that relocation is reasonable in the circumstances.

[3] I am dismissing the judicial review application as the Applicant has failed to establish any reviewable errors in the RAD's decision.

II. Analysis

[4] The Applicant argues that the RAD erred in four ways. First, he asserts that the RAD erred in refusing to admit the new evidence. Second, the Applicant submits that the RAD's refusal to convene an oral hearing was unfair. Third, he argues that the RAD erred in focussing solely on the viability of an IFA. Finally, the Applicant states that the RAD erred in assessing the viability of an IFA in Mumbai.

[5] The standard of review of reasonableness applies to the first, third, and fourth issues. A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker": *Canada (Minister of Citizenship and Immigration) v Vavilov* at para 85 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8 [*Mason*]. A decision should only be set aside if there are "sufficiently serious shortcomings" such that it does not exhibit the requisite

attributes of "justification, intelligibility and transparency": *Vavilov* at para 100; *Mason* at paras 59–61.

[6] The second issue raises an allegation of procedural unfairness. Where breaches of procedural fairness are alleged, no standard of review is applied, but the Court's reviewing exercise is "best reflected on a correctness standard": *Canadian Hardwood Plywood and Veneer Association v Canada (Attorney General)*, 2023 FCA 74 at para 57; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*CPR*]. The reviewing court must assess whether the procedure followed by the decision-maker was fair and just in the circumstances: *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35; *CPR* at para 54.

A. *The RAD's refusal not to admit the new evidence is reasonable*

[7] The new evidence the Applicant sought to adduce before the RAD was a YouTube video and transcript, and a newspaper article. He argued that this evidence was relevant because it substantiated his claims that he was a high-profile participant in the farmers' protests which significantly heightens his risk of persecution.

[8] In accordance with subsection 110(4) of the *IRPA*, new evidence must satisfy one of the following requirements to be admissible before the RAD: (i) it arose after the rejection of the refugee claim; (ii) it was not reasonably available at the time of the rejection; or (iii) it was reasonably available, but the person could not have reasonably been expected in the circumstances

to have presented it at the time of the rejection: *Canada (Citizenship and Immigration) v Singh*, 2016 FCA 96 at para 34 [*Singh*].

[9] Here, there is no dispute that the evidence existed before the RPD decision. In his submission to the RAD, the Applicant stated that the YouTube video was not provided to the RPD because he had "difficulties in locating it": Refugee Appeal Division – Reasons and Decision dated October 18, 2024 at para 7 [RAD Decision]. Regarding the newspaper article, the Applicant argued there were "challenges in gathering and identifying pertinent local publications that feature his protests": RAD Decision at para 8. Notably, no evidence was submitted before the RAD to support these arguments.

[10] The RAD did not accept the Applicant's arguments that the new evidence was not "reasonably available" at the time of the RPD decision or that he could not reasonably have been expected to present it to the RPD. The RAD reasoned that the Applicant had over a year from the time he made his refugee claim, and over two years from the time he arrived in Canada, to locate this evidence. Furthermore, the RAD noted that the Applicant was represented by counsel when he signed his Basis of Claim form and at his hearings before the RPD: RAD Decision at para 10.

[11] As the RAD further explained, the onus is on claimants to put their best case forward before the RPD: RAD Decision at para 11. A RAD appeal is not a second chance to submit evidence in response to weaknesses identified by the RPD: *Singh* at para 54.

[12] The Applicant argues that the RAD "failed to account for [the] practical barriers" of "accessing and verifying the media coverage of the protests" in refusing to admit this evidence. He further states that these barriers "are well-documented in cases involving widespread civil unrest and media coverage": Applicant's Memorandum of Argument at para 11. The Applicant does not cite any such cases in support.

[13] In *Da Graca v Canada (Citizenship and Immigration)*, 2019 FC 1464 [*Da Graca*], the applicant similarly argued that the new evidence they sought to adduce had been "difficult to obtain" and that "access to the Internet is difficult in [the applicant's] country": *Da Graca* at para 9. The RAD was not convinced by these arguments. The Court found no reason to intervene, concluding that it could not substitute its own views or reweigh the evidence: *Da Graca* at para 13, citing *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59. The same holds true in this case.

[14] For these reasons, I find that the RAD reasonably concluded that the new evidence did not meet the legal test for admissibility.

B. *The RAD's refusal to hold a hearing was not unfair*

[15] The Applicant's argument that the RAD's refusal to hold a hearing was unfair is without merit. Significantly, he mischaracterizes subsection 110(6) of the *IRPA*, stating that it "stipulates the possibility of an oral hearing, which should be granted in circumstances where the complexities of the case, including challenges related to evidence collection, are significant": Applicant's Memorandum of Argument at para 14.

[16] The RAD can only hold an oral hearing once new evidence is admitted under subsection 110(4) of the *IRPA* and the evidence meets the statutory criteria for a hearing under subsection 110(6): *Singh* at paras 48, 51, 71; *Gunasinghe v Canada (Citizenship and Immigration)*, 2023 FC 400 at para 33; *Rehman v Canada (Citizenship and Immigration)*, 2022 FC 783 at para 44; *Mohamed v Canada (Citizenship and Immigration)*, 2020 FC 1145 at para 21.

[17] Having determined that the Applicant's new evidence did not meet the requirements of subsection 110(4) of the *IRPA*, the RAD properly determined that "there can be no oral hearing pursuant to subsection 110(6) of the [*IRPA*]": RAD Decision at para 12.

C. *The RAD's focus on the determinative issue of an IFA is reasonable*

[18] The Applicant takes issue with the RAD restricting its analysis to the viability of an IFA in Mumbai. He argues that that the RAD erred in failing to assess "whether the Applicant's claims, if taken as true, would indeed qualify him for refugee protection": Applicant's Memorandum of Argument at para 17.

[19] In *Kiknavelidze v Canada (Citizenship and Immigration)*, 2022 FC 1293 [*Kiknavelidze*], the Court rejected a similar argument, finding that the RAD did not err in assuming, without deciding, that the applicant was credible. Like this case, the RAD had found that the determinative issue was the availability of an IFA. Justice McHaffie explained that "[t]he RAD has no general obligation to decide issues that are not determinative of an appeal before it": *Kiknavelidze* at para 12. I agree. On this basis, I find that the RAD's focus on the determinative issue of an IFA is not unreasonable.

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

[20] In thorough reasons, the RAD concluded that the agents of harm lack the motivation to locate the Applicant in Mumbai: RAD Decision at paras 17–28. The RAD agreed with the RPD that there was insufficient evidence that the Applicant has a high profile: RAD Decision at para 22. Further, the RAD found that the evidence failed to establish that the police were interested in him. As the RAD noted, there is no warrant or outstanding charges against the Applicant, nor any First Information Report or any allegation that one was issued: RAD Decision at para 27.

[21] The RAD then turned to whether the RPD correctly determined that relocation to Mumbai is reasonable based on the Applicant's particular circumstances: RAD Decision at paras 29–37. The RAD considered his ability to secure employment and accommodation: RAD Decision at paras 33–34. In addition, the RAD considered whether the Applicant being Sikh would render relocation unreasonable. Relying on objective evidence, the RAD determined that he would not face a serious possibility of persecution as a Sikh in India: RAD Decision at paras 36–37.

[22] I agree with the Respondent that the Applicant's arguments concerning a viable IFA amount to a disagreement with the RAD's assessment and weighing of the evidence. Sitting in review, it is not for the Court to reassess and reweigh the evidence before the decision-maker: *Vavilov* at para 125.

[23] Furthermore, where the Applicant argues that the RAD overlooked or disregarded evidence, he fails to cite any evidence in the record that contradicts or weakens the RAD's

conclusions: See, for example, Applicant's Memorandum of Argument at paras 18, 19, 23, 40. Rather, he simply refers to the relevant passages before the RAD with which he takes issue.

[24] As a result, the Applicant has failed to establish that the RAD's IFA determination is unreasonable.

III. Conclusion

[25] Based on the foregoing, the Applicant has not demonstrated that the RAD's decision is either unreasonable or procedurally unfair. The application for judicial review is dismissed.

[26] The parties did not propose any questions for certification, and I agree that none arises in this case.

JUDGMENT in IMM-21843-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Anne M. Turley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Justin S. Bhangu	FOR THE APPLICANT
Nima Omidi	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Law Office of Justin S. Bhangu Barrister and Solicitor Surrey, British Columbia	FOR THE APPLICANT
Attorney General of Canada Vancouver, British Columbia	FOR THE RESPONDENT