

Federal Court



Cour fédérale

**Date: 20260410**

**Docket: IMM-3159-25**

**Citation: 2026 FC 477**

**Toronto, Ontario, April 10, 2026**

**PRESENT: The Honourable Justice Battista**

**BETWEEN:**

**SALINA SIKDER**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant challenges the refusal of her application for permanent residence on humanitarian and compassionate grounds which was made pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]*. Her application was based upon her establishment in Canada, and her fears of gender-related harm in her country of citizenship, Bangladesh.

[2] As explained below, the application for judicial review is granted based on the Officer's misapprehension of the Applicant's evidence and submissions related to her previous experience of gender-related harm in Bangladesh.

## II. Background

[3] The Applicant fled Bangladesh and entered Canada on September 7, 2016 after making a claim for refugee protection. Her claim was based on allegations of persecution by two entities: the Awami League, a criminal gang in which her abusive ex-boyfriend was a member, and an Islamist militant group known as Hefazat-E-Islam (Hefazet).

[4] The Applicant alleged that the Awami League assaulted and harassed her, harassed her employees, and extorted money from her. She claimed that her efforts to seek assistance from the police and political representatives in Bangladesh were unsuccessful because of connections between political authorities and the Awami League, and because of police corruption.

[5] The Applicant also alleged that Hefazat threatened her because she hired female employees in her business and allowed them to work together with male employees. She claimed to have been kidnapped and abused by Hefazat in May 2016 and released after being forced to pay a ransom. After collecting the ransom, Hefazat warned her to close her business, to cover her head, to stay at home and to comply with other Islamic rules.

[6] The Refugee Protection Division (RPD) found the Applicant to be "generally credible," noting that she "testified consistently and in a straightforward manner as to her experiences in

Bangladesh.” It refused her claim due to an Internal Flight Alternative (IFA) in Chittagong, where the RPD found that she could reasonably obtain safety. The Refugee Appeal Division (RAD) refused the appeal from the RPD’s decision.

[7] The Applicant filed an application for permanent residence in Canada on humanitarian and compassionate [H&C] grounds. The two bases for the application were the Applicant’s establishment in Canada, and the Applicant’s risk of gender-based harm as demonstrated by her own personal experiences and by country conditions in Bangladesh.

[8] In support of the latter basis of the application, the Applicant submitted the narrative from her Basis of Claim form (BOC) which supported her refugee claim. She also submitted documentary evidence describing widespread gender-based discrimination and abuse in Bangladesh.

[9] In refusing the H&C application, the Officer gave the Applicant’s establishment in Canada “some positive consideration” but found that it was not “so exceptional” to justify approval of the application. Regarding the Applicant’s concerns about country conditions in Bangladesh, the Officer gave “considerable weight to the findings from the applicant[‘s] refugee claim.” The Officer acknowledged adverse conditions for women in Bangladesh but found that the Applicant did not demonstrate that she had been personally affected.

III. Issue

[10] The sole issue in this application is whether the decision is reasonable pursuant to the description of that standard set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], and affirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21. A reasonable decision must be respectful of the evidentiary record and its conclusions must be justified (*Vavilov*, at para 126).

IV. Analysis

[11] The decision is unreasonable because of the Officer's misapprehension of the Applicant's evidence and submissions regarding her personal experiences of gender-related harm in Bangladesh.

[12] As indicated above, the Officer dismissed the Applicant's concerns regarding gender-related harm based on her failure to demonstrate that she had been personally affected. After recognizing adverse conditions for women in Bangladesh, the Officer stated that "little detail have been [*sic*] submitted to demonstrate gender-based hardship."

[13] In fact, the Applicant submitted the 14-page BOC narrative from her refugee claim which described her personal experiences of gender-related threats and mistreatment, and which was found to be generally credible by the RPD. Further, her counsel's written submissions supporting the H&C application contained multiple references to the Applicant's experiences as a basis for arguing that the Applicant's personal history of gender-related harm, combined with country condition evidence, established H&C grounds for her application for permanent residence.

[14] Counsel for the Respondent argued that the Officer addressed the Applicant's concerns of gender-related harm by relying on the RPD's findings, including the finding of an IFA in Chittagong. However, the Officer's reasons do not state this; they state incorrectly that the Applicant did not demonstrate that she had been personally affected.

[15] Moreover, even if the Officer had relied on the RPD's IFA finding to address the Applicant's concerns of gender-related harm, it would have been a misapplication of the criteria for assessing her application. That criteria required an assessment of whether permanent residence for the Applicant was justified based on H&C considerations rather than the IFA test, which is specific to the refugee context (*Kanhasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 51).

[16] Ultimately, it is impossible to know the outcome of the Applicant's H&C application if the Officer had not misapprehended the Applicant's evidence and submissions.

## V. Conclusion

[17] The Officer's finding regarding the Applicant's lack of personal experience of gender-based harm is a fundamental misapprehension of the evidence and a failure to meaningfully grapple with a central argument that she raised (*Vavilov*, at paras 127-128). As a result, the decision is unreasonable on this basis alone and it is not necessary to deal with the Officer's findings about the Applicant's establishment evidence.

**JUDGMENT in IMM-3159-25**

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

1. The application for judicial review is granted, the refusal of the Applicant's application on humanitarian and compassionate grounds is set aside, and the matter is returned to a different officer for redetermination.
2. There is no question for certification and no order regarding costs.

"Michael Battista"

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3159-25

**STYLE OF CAUSE:** SALINA SIKDER v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** APRIL 9, 2026

**JUDGMENT AND REASONS:** BATTISTA J.

**DATED:** APRIL 10, 2026

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