

Federal Court



Cour fédérale

**Date: 20260417**

**Docket: IMM-18553-24**

**Citation: 2026 FC 520**

**Ottawa, Ontario, April 17, 2026**

**PRESENT: The Honourable Mr. Justice Southcott**

**BETWEEN:**

**GURPAL SINGH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] This is an application for judicial review of a decision by the Refugee Appeal Division [RAD] dated September 13, 2024 [the Decision], refusing the Applicant's appeal and confirming the decision of the Refugee Protection Division [RPD] to refuse the Applicant's refugee protection claim pursuant to sections 96 and 97 of *Immigration and Refugee Protection Act*, SC

2001, c 27 [IRPA]. In the Decision, the RAD concluded that the Applicant has a viable internal flight alternative [IFA] within India.

[2] As explained in further detail below, this application for judicial review is dismissed, because the RAD's treatment of the new evidence that the Applicant sought to introduce on appeal, and its IFA analysis, are reasonable.

## II. **Background**

[3] The Applicant is a citizen of India, from the state of Haryana, who asserts fear of persecution in India by members of the Bharatiya Janata Party [BJP], his cousin who is a supporter of the BJP [the Cousin], and the police [together, the Agents of Persecution or AOP]. The Applicant asserts this fear as having arisen based on a land dispute and related litigation with the Cousin (which culminated in the Applicant being granted land belonging to his deceased father), exacerbated by the Applicant's membership in a unit of the Congress Party, a political rival of the BJP.

[4] The Applicant alleges that the Cousin threatened him in August 2018 and threatened and tried to attack him in September 2018 and that, although he attempted to file a complaint against the Cousin [the Complaint], the police did not help him. The Applicant relocated to his grandfather's house elsewhere in Haryana and asserts that in October 2018 his grandfather was attacked by the Cousin's men because of the Applicant having filed the Complaint. The Applicant further asserts that the police pressured him not to pursue the Complaint, including by arresting and beating him in December 2018.

[5] In May 2019, the Applicant also had a conflict with a former customer who was a BJP supporter and had a mutual friend in common with the Cousin [the Customer]. After the Customer threatened to kill the Applicant, the Applicant again unsuccessfully attempted to make a police report. The next day, the Customer came to the Applicant's home with three or four other people, verbally abused the Applicant's mother and threatened to kill the Applicant, who was not home at the time. The Applicant called the police, but they took no action. Following this incident, the Applicant moved to the home of his aunt.

[6] The Applicant subsequently left India and entered Canada on a visitor visa, following which he filed a claim for refugee protection claim in November 2019.

[7] The RPD heard the Applicant's refugee protection claim in January 2024. On May 10, 2024, although finding the Applicant generally credible, the RPD rejected his claim, concluding that the Applicant could militate against the threats made against him and that he had failed to demonstrate that the AOP had the means or motivation to find him in certain IFA cities within India.

[8] The Applicant appealed the RPD's decision to the RAD and, on September 13, 2024, in the Decision that is the subject of this application for judicial review, the RAD dismissed the Applicant's appeal.

III. **Decision under Review**

[9] In the Decision, the RAD dismissed the Applicant's appeal and confirmed the RPD's decision, due to the availability of an IFA within India.

A. *Admissibility of New Evidence*

[10] In support of his appeal, the Applicant sought to introduce a number of items of new evidence, both under subsection 110(4) of IRPA (which permits the presentation of evidence that arose after the rejection by the RPD of an appellant's claim or that was not reasonably available, or that the appellant could not reasonably have been expected in the circumstances to have presented, at the time of the rejection) and under Rule 29(3) of the *Immigration and Refugee Board, Refugee Appeal Division Rules*, SOR/2012-257 (which relates to material that was not provided in a party's appeal record).

[11] Focusing upon the items of proposed new evidence that are at issue in this application, that evidence included:

- A. affidavits of the Applicant's uncle [the Uncle] and the Uncle's friend [the Friend], providing evidence of alleged efforts by the AOP to locate and threaten the Applicant in April, May and July of 2024, in the course of which the Uncle was injured;
- B. medical documents related to the Uncle's alleged injuries; and
- C. court documents related to criminal proceedings against the Cousin in India.

[12] The RAD determined that this evidence was not admissible because it was not credible, either on the face of the documents or in the timing of the events alleged. The RAD noted that the Applicant had not been subject to attacks since 2018 and that those attacks had been limited to locations within the state of Haryana. The RAD concluded that the timing of the new evidence sought to be adduced represented an extraordinary coincidence, analogous to evidence excluded in *Meng v Canada (Citizenship and Immigration)*, 2015 FC 365 [*Meng*], because it related to a new police search for the Applicant in a distinct third location, outside of the state of Haryana, around the same time that the RPD found that the AOP were not motivated to locate the Applicant outside of particular locations.

[13] The RAD also provided further reasons for rejecting the medical documentation, because it employed language that the RAD would expect from a layperson rather than from a medical professional, it contained speculation as to the modality of Uncle's injury that a doctor would know was beyond their personal knowledge, it did not indicate performance of the diagnostic tests that would be expected in the context of the Uncle's alleged injuries, and it included medical inconsistencies (such as referencing a tetanus shot being used to prevent sepsis rather than to prevent tetanus). The RAD also noted that the relevant country condition evidence [CCE] indicated that fraudulent medical records were easy to obtain in India.

[14] The RAD also rejected the recent orders from the court proceedings against the Cousin because they were not sufficiently reliable or credible. The RAD found that the orders had no indicia of reliability (i.e., stamp, official header, signature) and noted that the spelling of the Cousin's name in the style of cause was inconsistent between the documents and inconsistent with other evidence in the application.

B. *Viability of IFA*

[15] The RAD then turned to analyzing the viability of the proposed IFAs. Based on the AOP's historical efforts to locate the Applicant being limited to villages in Haryana that were within a few hundred kilometres from each other, as well as the lack of contact between the AOP and the Applicant's family members, and the time that had passed since the Applicant filed the Complaint against the Cousin, the RAD found that the Applicant had failed to establish that any AOP would be motivated to locate him in an IFA. The RAD additionally concluded that any motivation the Cousin would have to locate and harm the Applicant would be greatly diminished if the Applicant gave up his rights to the disputed property. The RAD also adopted the RPD's assessment that the Applicant had not established that he was at risk from the BJP at the national level, because having disputes with BJP members did not make the entire party an AOP.

[16] The RAD noted that, having found that the Applicant did not establish that any AOP would be motivated to look for him in an IFA, it was not necessary to consider whether they would have the means to do so. The RAD nevertheless considered, but rejected, the Applicant's arguments on the capacity of the AOP to locate him.

[17] The RAD also concluded the Applicant failed to establish that the proposed IFA locations were unreasonable. It found, on a balance of probabilities, that the Applicant would be able to find employment and housing in the IFA locations, would be able to communicate in those locations using Hindi and English skills, and would be able to practise his religion there. Therefore, the RAD concluded that any hardship faced by the Applicant in the IFA locations would not jeopardize his life or safety.

[18] Based on the foregoing analysis, the RAD dismissed the Applicant's appeal and confirmed the decision of the RPD that the Applicant is neither a Convention refugee nor a person in need of protection.

IV. **Issues and Standard of Review**

[19] Based on parties' respective submissions, this matter raises the following issues for the Court's determination:

- A. Has the Applicant improperly sought to introduce new evidence in this application?
- B. Did the RAD unreasonably refuse to accept the Applicant's new evidence on appeal?
- C. Did the RAD unreasonably determine the availability of a viable IFA?

[20] As is implicit in the articulation of the latter two issues, the parties agree that the merits of the Decision are to be assessed on the reasonableness standard of review, as informed by *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

V. **Analysis**

- A. *Has the Applicant improperly sought to introduce new evidence in this application?*

[21] The Applicant has filed an affidavit, sworn October 23, 2024, in support of this application. The Respondent takes issue with the evidence at paragraphs 4 to 15 of this affidavit, as new evidence that was not before the RAD when it made the Decision, as well as a hyperlink (<https://ambala.dcourts.gov.in/case-status-search-by-case-number/>) in the Applicant's

Memorandum of Argument, which the Applicant has introduced without evidentiary support.

The Respondent argues that this evidence should be struck from the record or disregarded and given no weight. The Respondent notes that, with limited exceptions, the evidentiary record before a court on judicial review is restricted to that which was before the administrative decision-maker (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [*Access Copyright*]).

[22] The Applicant's counsel confirmed at the hearing that the Applicant was not relying on the hyperlink. In relation to the Applicant's affidavit, the relevant paragraphs of which provide an update as to his marital status and summarize the allegations upon which his refugee claim is based, his counsel takes the position that the impugned paragraphs represent background information, which is admissible as one of the *Access Copyright* exceptions.

[23] I agree with the Respondent that the Applicant's marital status does not appear relevant to the issues in the application. However, for purposes of orienting the Court as to the personal details of a litigant before it, I accept the Applicant's position that such evidence is admissible background.

[24] With respect to the Applicant's allegations of the events giving rise to his fear of harm or persecution, I agree with the Respondent that, in considering the merits of the issues in this application, the Court must rely on the evidence of those events that was before the RAD. However, I accept the Applicant's position that the impugned evidence in his affidavit is intended to provide the Court with a summary of his allegations as background, and that he does not intend to rely on that evidence in support of his position on the merits of the application.

While it may have been better practice to frame that background evidence as an explanation of the allegations he had advanced before the RAD, rather than advancing those allegations anew, I am satisfied that the evidence is admissible for the purpose for which it is introduced.

B. *Did the RAD unreasonably refuse to accept the Applicant's new evidence on appeal?*

[25] The Applicant submits that the RAD erred in its treatment of each of the three categories of evidence referenced earlier in these Reasons.

(1) Affidavit evidence

[26] In relation to the affidavits of the Uncle and the Friend, the Applicant argues that the RAD unreasonably relied on *Meng* in rejecting that evidence as lacking credibility. He asserts that *Meng* is distinguishable, in that the evidence of the applicant in *Meng* had been found overall not to be credible on multiple grounds. In contrast, the RPD found the Applicant to be generally credible. He also notes that, in the case at hand, consistent with the evidence of attacks upon the Uncle, the evidence (found generally credible by the RPD) included evidence of attacks upon members of the Applicant's family.

[27] While the Applicant has correctly identified factual differences between *Meng* and the case at hand, I agree with the Respondent that there is nothing unreasonable about the RAD, in performing its particular statutory mandate under subsection 110(4) of IRPA, assessing the credibility of the new evidence independent of the previous credibility findings of the RPD (see *Paque Ceja v Canada (Citizenship and Immigration)*, 2026 FC 334 at paras 26-27). I also find that the history of attacks on other members of the Applicant's family does not undermine the

logic of the RAD's reasoning based on *Meng*. Nor does that reasoning support a conclusion that the RAD overlooked that history.

[28] The Applicant also argues that that RAD failed to sufficiently consider the chronology of the incidents identified in the new affidavit evidence, in relation to the timing of the RPD's decision. In particular, he asserts that these incidents occurred well before the May 10, 2024 decision and that the RAD did not consider the Applicant's explanation that he became aware of those incidents only on May 16, 2024, because he had not previously been in contact with the Uncle. The Applicant further submits that, if he had been fabricating these events, it would have made more sense for him to invent incidents that had taken place after the date of the RPD's decision.

[29] I do not these arguments compelling. As the Respondent submits, *Meng* forms part of a consistent line of jurisprudence to the effect that the RAD may refuse to accept new evidence based on credibility concerns arising from its suspicions timing (*Morales v Canada (Citizenship and Immigration)*, 2024 FC 133 citing *Jiang v Canada (Citizenship and Immigration)*, 2021 FC 572 at para 44; *Idugboe v Canada (Citizenship and Immigration)*, 2020 FC 334 at paras 21-25; *Elmi v Canada (Citizenship and Immigration)*, 2020 FC 296 at paras 32-36; *Meng* at para 22). Based on those authorities and the overall logic of the *Meng* reasoning, I am not convinced that the particular chronology of an RDP decision, alleged new incidents, and the applicant becoming aware of such incidents is necessary material. The logic applies if there is temporal proximity between the decision and the alleged new events or at least an applicant's assertion of his awareness of same.

(2) Medical documents

[30] In relation to the medical documents, the Applicant argues that it was unreasonable for the RAD to impugn the credibility of this evidence based on the language used therein. He notes that the RAD compared that language with that of the medical documents introduced before the RPD related to the treatment of the Applicant's grandfather in 2018 and submits that the RAD failed to account for the fact that these two sets of documents were prepared by different hospital and medical practitioners. Also, in relation to that comparison and the RAD's concern about a medical professional speculating as to the modality of an injury, the Applicant notes that the records of the grandfather's treatment include the handwritten word "assault".

[31] On the latter point, the relevant language is not on all fours, as it cannot be determined whether the single word "assault" represents an opinion on modality as opposed, for instance, to a reference to what the patient had reported. In relation to the different levels of formality of the language, there is no basis to conclude that the RAD misunderstood the fact that the language emanated from different hospital and practitioners. The RAD's point is that members of a profession would be expected to use professional language. I find nothing unreasonable in this analysis.

[32] Moreover, even if the Court were to accept the above arguments, the Applicant has not impugned what I would consider to be the most compelling components of the RAD's analysis, that the medical documentation did not indicate performance of the diagnostic tests that would be expected in the context of the Uncle's alleged injuries, and that it included medical

inconsistencies such as referencing a tetanus shot being used to prevent sepsis rather than to prevent tetanus.

(3) Court documents

[33] The Applicant also challenges the reasonableness of the RAD's conclusion that the documents related to the criminal proceeding against the Cousin lacked credibility. He argues that the RAD failed to consider the fact that the RPD had accepted and considered documents related to that proceeding in making its decision.

[34] I do not find this argument to undermine the reasonableness of this aspect of the Decision. While the RAD noted that the relevant court orders lacked indicia of reliability (which perhaps could also be said of the documents considered by the RPD), I read the RAD's analysis as turning significantly on the inconsistencies in the spelling of the Cousin's name, both in the styles of cause in different orders, and as between the orders and other evidence in the record. The Applicant has not challenged the reasonableness of that reasoning. I find that the RAD's treatment of the Court documents withstands reasonableness review.

C. *Did the RAD unreasonably determine the availability of a viable IFA?*

[35] In relation to the merits of the Decision, which turned on the viability of the identified IFA locations, the Applicant references the principle that, where an administrative decision-maker is silent on evidence pointing to a conclusion contrary to its finding, a court may infer that the decision-maker overlooked that evidence (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) [*Cepeda-Gutierrez*] at para 17).

[36] The Applicant notes that, in making the Decision, the RAD rejected (or, in relation to evidence of What's App calls from the Cousin, gave no probative value to) all the Applicant's new evidence. However, the principle explained in *Cepeda-Gutierrez* has no application to those facts. It cannot be concluded that the RAD overlooked the new evidence. Rather, it did not take that evidence into account because it held that the evidence was inadmissible or of no probative value.

[37] The Applicant also argues that the RAD failed to consider that he would face risk due to his pursuit of the case against the Cousin. Again, I do not consider *Cepeda-Gutierrez* to apply to that argument, which does not rely on evidence that the Applicant submits was overlooked. That said, if the RAD failed to engage with a risk allegation that the Applicant had advanced, such failure could represent a reviewable error. However, the RAD agreed with the RPD that the Cousin would no longer have an interest in the Applicant if he divested himself of any interest in the disputed land, further found a lack of motivation to locate the Applicant in an IFA (based on the historical efforts to locate the Applicant having been limited to Haryana), and expressly referenced the latter finding in the context of the Applicant's asserted fear of the Cousin due to the prosecution against him. It cannot be concluded that the RAD overlooked these aspects of the Applicant's risk allegations.

[38] The Applicant also submits that the fact that the Cousin was able to locate the Applicant's Canadian phone number (evidenced by the What's App calls) speaks to the Cousin's motivation and ability to locate the Applicant in any part of India. However, as noted above, the RAD assigned no probative value to this evidence.

[39] The Applicant emphasizes the fact the BJP is the ruling political party in India as increasing his vulnerability and risk. However, the RAD intelligibly explained its conclusion that the fact the Applicant had disputes with BJP members did not result in the BJP being an AOP, particularly outside of the Applicant's locality.

[40] The Applicant also references the CCE (related to the ability of the AOP to locate him in India) as supporting his position that he faces a serious risk to his life if forced to return. However, the RAD analyzed the CCE on this issue and, applying the principle in *Cepeda-Gutierrez*, the Applicant has not identified a basis for the Court to conclude that the RAD overlooked the objective evidence that the Applicant cites.

[41] Finally, at the hearing of this application, the Applicant argued that the RAD failed to consider a submission advanced on appeal to the effect that his issues with the Cousin escalated after the Applicant became politically active in 2016. The Respondent objected to the Applicant pursuing this argument, because it was not raised in his Memorandum of Argument, in response to which Applicant referred the Court to paragraphs of his Memorandum that referenced his political opinion as one of the bases on which he feared return to India. The Respondent also provided a substantive response to the Applicant's argument, and I reserved my decision on whether that argument was properly before the Court.

[42] I agree with the Respondent's position that the Applicant's Memorandum's reference to his political opinion did not raise the relevant argument with sufficient particularity. That said, I also find no merit to this argument. The Decision expressly referenced the Applicant's assertion that belonging to competing political parties added to the enmity between him and the Cousin

and, as canvassed earlier in these Reasons, the RAD nevertheless concluded that the Cousin did not have sufficient motivation to search for the Applicant outside of Haryana.

VI. **Conclusion**

[43] Based on the above analysis, I find that the Decision is reasonable and that this application for judicial review must be dismissed.

[44] Neither party proposed any question for appeal, and none is stated.

**JUDGMENT IN IMM-18553-24**

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

1. This application for judicial review is dismissed.
2. No question is certified for appeal.

"Richard F. Southcott"

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Judge

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

**DOCKET:** IMM-18553-24

**STYLE OF CAUSE:** GURPAL SINGH v THE MINISTER OF CITIZENSHIP  
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**APPEARANCES:**

Shruti Sharma FOR THE APPLICANT

Philippe Alma FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Badh and Rejminiak LLP FOR THE APPLICANT  
Surrey, British Columbia

Attorney General of Canada FOR THE RESPONDENT  
Vancouver, British Columbia