

Federal Court



Cour fédérale

Date: 20130521

Docket: IMM-6756-12

Citation: 2013 FC 521

Vancouver, British Columbia, May 21, 2013

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

**MD. RAFIQL ISLAM, NASIR ISLAM,
FARHAN SYED AND LABONITA ISLAM**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] MD. Rafiqul Islam (the Applicant), his spouse Nasira Islam, and their minor children Farhan Sayed and Lobonita Islam (collectively, the Applicants) seek judicial review (the Application) pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the Act) of a decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board) dated June 18, 2012, wherein the Board determined that the Applicants are neither Convention refugees nor persons in need of protection (the Decision).

[2] For the following reasons, the Application will be dismissed.

[3] During the late 1980s and early 1990s, the Applicant was actively involved in the student wing of the BNP Party in Bangladesh. In 1994, after graduation, he became a policeman and there is no evidence that he was politically active after that date.

[4] After the BNP came to power in 2001, the Applicant was assigned duties which included suppressing protests against the BNP government by members of the Awami League (the League). However, power shifted and the League formed the government following elections in December 2008. Thereafter, men the Applicant describes as "League terrorists" undertook reprisals against those who had opposed the League, including police who had suppressed the earlier protests.

[5] In the course of these reprisals, the Applicant's home in Khulna was ransacked and his wife was threatened in early January 2009 (the Attack). In consequence she moved, with her two young children, to live with her mother in the same city.

[6] The Applicant was in Kosovo on a UN peacekeeping mission when the Attack occurred. He returned to Bangladesh shortly thereafter and, for six months, resumed his duties as a policeman. He lived in Dakar with his brother and experienced no problems. Then, in August 2009, he left for the Sudan to assist with UN peacekeeping in Darfur. That assignment ended in 2010.

[7] The Applicants arrived in Canada on August 17, 2010 and claimed refugee status three days later.

[8] The principal issue in this case is whether it was reasonable for the Board to conclude that the Applicant's multiple reavailments to Bangladesh undermined the credibility of his alleged subjective fear.

[9] The Board identified the reavailments as an issue in the screening form sent to the Applicant and his counsel before the hearing. However, only during the hearing did the Board learn that the Applicant's amended Personal Information Form (PIF) narrative described only two incidents of reavailment to Bangladesh when, in fact, there had been four. They were:

March 2010: For five days – he returned from the Sudan to apply for a visa to visit Malaysia (not in his PIF).

March 2010: For several hours at the airport travelling back from Malaysia to the Sudan (not in his PIF).

May 17-25: To apply for visas for his family for Canada – The visas were issued on May 23.

August 3-17: To arrange his family's travel to Canada.

[10] The Board concluded that the Applicant failed to provide a satisfactory explanation for his failure to disclose the first two reavailments in his PIF and in his initial testimony at the hearing. He said variously that: (i) he thought they were mentioned in the PIF; (ii) he misunderstood the Board's question when it sought an explanation (although he acknowledged that he had no problems with the interpretation he was provided); and (iii) that he was mentally ill when he returned to Bangladesh (however, there was no supporting medical evidence and this information was not in his PIF).

[11] The Applicant also failed to satisfactorily explain the last two reavailments. There was no evidence showing that his wife could not have applied for the visas or organized the family for a short flight to meet up with her husband outside Bangladesh.

[12] The Applicant did say that his wife was not capable of travelling and that she had never left Bangladesh. However, this statement was untrue – she travelled with him to Malaysia in March 2010. The Board therefore concluded that the Applicant's wife, who has a university education, could have organized the visas and tickets for the trip to Canada and there was no evidence of cultural norms or other issues which might have stood in her way.

[13] For these reasons, in my view, the Decision was reasonable.

[14] No question was posed for certification pursuant to section 74(d) of the Act.

ORDER

THIS COURT ORDERS that upon reviewing the material filed and hearing the submissions of counsel in Toronto on Tuesday, April 30, 2013, the Application is hereby dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-6756-12

STYLE OF CAUSE: MD. RAFIQUUL ISLAM et al v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 30, 2013

**REASONS FOR ORDER
AND ORDER:** SIMPSON J.

DATED: May 21, 2013

APPEARANCES:

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