

Federal Court



Cour fédérale

Date: 20250409

Docket: IMM-9353-21

Citation: 2025 FC 653

Ottawa, Ontario, April 9, 2025

PRESENT: The Honourable Madam Justice Saint-Fleur

BETWEEN:

WASIF KHAN DURANI

Applicant

and

**THE MINISTER OF IMMIGRATION,
REFUGEES AND CITIZENSHIP CANADA**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a decision by the Refugee Appeal Division [RAD] of the Immigration and Refugee Board, dated November 18, 2021 [Decision]. The RAD upheld the decision of the Refugee Protection Division [RPD], finding the Applicant neither a Convention refugee nor a person in need of protection under sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

II. Background Facts

[2] The Applicant, Wasif Khan Durani [Applicant], is a 33-year-old citizen of Pakistan. He seeks refugee protection due to fear of persecution from the Sipah-e-Sahaba [SSP], a Sunni extremist group, if he were to return to Pakistan.

[3] The Applicant converted to the Shia sect of Islam in secret. While living abroad, the Applicant was told by his family that he needed to return to Pakistan to marry the daughter of a family friend, a follower of the Sunni faith. He refused to marry her. His refusal has angered the father's friend, who is a local shopkeeper of the Sunni faith and who has spoken out publicly against the Applicant within the Rawalpindi Sunni community.

[4] The Applicant was threatened with death by the father of the bride-to-be, by Sunni extremists in the Rawalpindi community, and by members of an extremist anti-Shia group who are considered terrorists, through phone calls to his family in Rawalpindi and at their home. In October and November 2018, the Pakistani police in New Town noted the complaints by the Applicant's father about the threats received during these months but refused to prepare First Information Reports [FIRs].

III. Decision Under Review

[5] The RPD found the Applicant not credible and held he had viable internal flight alternatives [IFA] in Lahore and Hyderabad. The RAD held the RPD erred in its negative credibility finding but was correct in finding the Applicant has a viable IFA in Hyderabad.

[6] The RAD held “that the RPD erred in making a negative credibility finding,” instead concluding the Applicant established his core allegations on a balance of probabilities.

[7] The RAD then applied the two-prong test for IFAs set out by the Federal Court of Appeal, which requires refugee claimants to establish that 1) “there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists” and that 2) “it would not be unreasonable, in all the circumstances, for the claimant to seek refuge there” (*Rasaratnam v Canada (Minister of Employment and Immigration) (CA)*, 1991 CanLII 13517 (FCA) at 709-10; see also *Thirunavukkarasu v Canada (Minister of Employment and Immigration) (CA)*, 1993 CanLII 3011 (FCA) at paras 12-15).

A. *Safety*

[8] The RAD found the Applicant had not established the proposed IFA of Hyderabad would be unsafe for several reasons, summarized as follows:

- the profile of the Applicant’s friend’s father, as a local businessman in Rawalpindi with influence that appears limited to his community, as there is no evidence that was put forth that his influence extends outside the community;
- the failure of the agents of persecution to revisit the Applicant’s family since 2018 to check on his whereabouts;
- the absence of any criminal charges against the [Applicant] that would cause the police to show interest in him if he were to relocate and register with the tenant registration system; and
- the lack of proof that the police would communicate the Applicant’s whereabouts to the members of the terrorist group based solely on his conversion to the Shia sect of Islam and his refusal to marry into a particular family.

[9] The RAD agreed with the RPD that the Applicant “is a low-profile individual, based on his long absence from the country and the nature of his work, which is not political or high-profile and does not put him at odds with the extremist group,” and found he had “not established that the agents of persecution would have the means or motivation to find and harm him in Hyderabad.”

[10] The RPD’s reasons provide further detail on this point. In particular, the RPD found there is no indication the Applicant would come to anyone’s attention in the IFAs based on his profile, or that his alleged problems would go beyond local issues with persecutors in Rawalpindi. The RPD also found speculative and unsupported by documentary evidence of the Applicant’s allegation that once the authorities have his information, the SSP will become aware of his location in the IFAs. Evidence of the existence and functioning of the SSP in Pakistan does not lead to the conclusion that their network is so advanced that the standard provision of ID from the Applicant to a landlord or police or for obtaining a job or SIM card would lead back to the SSP.

[11] The RPD further determined that the Applicant is not of such acute and ongoing interest to the SSP that they are constantly on the lookout for him, and that there is no persuasive evidence establishing that the police or any other law enforcement were working with or under the control of SSP in seeking to locate or harm him. Moreover, the RPD found there is no evidence that the tenant registration system is used to track people like the Applicant in this particular circumstance. The system is used to track the movement of people involved in criminal activities, and inter-provincial communication usually occurs in high-profile cases, not

just any case. The RAD found there was no evidence before it to suggest that the Applicant is involved in criminal activities or that the police in Pakistan have any interest in him.

B. *Reasonableness*

[12] The RAD agreed with the RPD that the Applicant had not established it would be objectively unreasonable to relocate to Hyderabad. The Decision states:

[37] I find that considering the objective documentary evidence on Hyderabad regarding its ethnically diverse makeup and a location where those of different faiths, including Shia Muslims, can freely practise their religion and where English and Urdu are among the languages spoken, combined with the Appellant's personal situation, including his employment experience and educational background, the RPD is correct in its analysis with respect to the reasonableness of the proposed IFA. I have reviewed the documentary evidence of country conditions produced by the Appellant, including the report that there were accusations against police in Hyderabad as being incompetent in a particular case, as well as a report that the influence of anti-Shia extremism has spread to the Sindh province where Hyderabad is located, and while I consider these to be of serious concern, it does not establish that the particular location of Hyderabad would be unduly harsh for the Appellant. I therefore agree with the RPD's decision that the Appellant has not established that Hyderabad would be objectively unreasonable as an IFA.

IV. Issues

[13] The issue in this application is whether the Decision is reasonable.

V. Standard of Review

[14] The parties agree that the standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17, 23-25 [Vavilov]).

VI. Submissions

[15] The Applicant submits the RAD's finding on IFA is unreasonable and that the RAD did not conduct an independent assessment of the evidence.

[16] The Respondent submits the Applicant disagrees with the RAD's conclusions and is asking this Court to reweigh the evidence, which is not its role on judicial review.

A. *Assessment of SSP's Influence in the IFA and Continuing Interest*

[17] The Applicant submits the RAD's finding that SSP has limited influence in the IFA is unintelligible because it contradicts its earlier findings that SSP had targeted the Applicant for converting to the Shia faith and that SSP's influence extends throughout Pakistan. The Applicant argues the RAD failed to consider the specific risks and persecution he fears, making the Decision unreasonable (*Velasquez v Canada (Citizenship and Immigration)*, 2010 FC 1201 at paras 16-17).

[18] The Applicant also submits the RAD's finding that his low profile "does not put him at odds with the extremist group" is contradicted by objective evidence of the SSP's targeting of "ordinary" Shia citizens.

[19] The Respondent submits the Decision specifically considers the Applicant's low profile, extended time out of Pakistan with no follow-up by SSP, and objective country condition evidence that while anti-Shia extremism had spread to the Sindh province where Hyderabad is located, it would not be unduly harsh for the Applicant to relocate there.

[20] The Respondent argues the Applicant is asking the Court to re-weigh the evidence, which is not its role on judicial review (*Vavilov* at para 125). Further, a one-sided presentation of evidence is not sufficient to establish a tribunal erred; the Applicant's arguments are merely disagreement with the conclusions drawn (*Duran Mejia v Canada*, 2009 FC 354 at para 55, citing *Johal v Canada (Minister of Citizenship and Immigration)*, 1997 CanLII 5967 (FC) at paras 10-11).

[21] The Applicant further submits the RAD's finding concerning a lack of continuing interest from SSP is unjustifiable because "terrorist groups often act irrationally" (*Yoosuff v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1116 at para 8, citing *Anthonimuthu v Canada (Minister of Citizenship and Immigration)*, 2005 FC 141; *Franco Taboada v Canada (Citizenship and Immigration)*, 2008 FC 1122, at para 35 [*Franco Taboada*]).

[22] The Respondent takes the position that *Franco Taboada* is distinguishable because the RAD in that case made a plausibility finding, while the RAD in the case at bar found the Applicant had not provided adequate evidence to support his fear that SSP maintained an ongoing interest in him such that he would be specifically targeted upon returning to Pakistan. The Respondent argues the Applicant has not met his evidentiary burden and relies on speculation and country condition evidence the RAD found unpersuasive.

B. *Assessment of the Evidence on Tenant Registration System and Police Corruption*

[23] The Applicant submits the RAD unreasonably assessed the documentary evidence on the tenant registration system and police corruption in Pakistan, which show 1) tenant registration is

mandatory, 2) police can locate individuals in other provinces through this system, and 3) there is significant police corruption and authorities' connection with groups like SSP.

[24] The Respondent submits “the Applicant’s arguments misapprehend the RAD’s findings, which were responsive to his specific claim that the police would pass on his information to SSP and reasonably found the Applicant had not established why, in the absence of a criminal history, the police would take interest in him and pass along his information to SSP solely on the basis of his registry into the tenant system.” The Respondent submits reading the RAD’s reasons in their full context, including the underlying RPD decision, demonstrate the RAD reasonably considered the Applicant’s circumstances in light of the objective evidence.

C. *Independent Assessment of the Evidence.*

[25] The Applicant argues the RAD did not conduct an independent assessment of the evidence and failed to grapple with the issues he raised, including his profile and his risk upon his return to Pakistan. He cites *Pintyi v Canada (Citizenship and Immigration)*, 2021 FC 117 [Pintyi], which held a RAD decision was unreasonable for failing to assess substantive issues and “leav[ing] [the Applicant] guessing as to why the RAD” made certain conclusions (at paras 10-11).

[26] In particular with regards to the second prong of the IFA test, the Applicant points out the RAD determined in a single paragraph that it is reasonable for him to relocate to Hyderabad. He submits the RAD appears to accept that anti-Shia extremism has spread to the Sindh province, where Hyderabad is located, and that the evidence asserts that Sunni extremist groups such as

SSP operate throughout the province of Sindh including areas surrounding Hyderabad. He submits that RAD's apprehension of the reasonableness of Hyderabad as a viable IFA is unreasonable.

[27] The Respondent again submits the Applicant's arguments amount to a disagreement with the RAD's weighing of the evidence and conclusion but does not show that the RAD erred or that its conclusion was unreasonable.

VII. Analysis

A. *Assessment of SSP's Influence in the IFA Hyderabad and Continuing Interest made by the RAD is reasonable*

[28] I find that the RAD's finding on the first prong the IFA test (safety) was based on his specific fears and risks caused by his refusal to marry, his conversion to the Shia sect of Islam, and the evidence.

[29] Regarding the influence of SSP in the IFA location, the RAD noted that the RPD found that Hyderabad was not a location where the group exercised any control, and that according to the objective documentary evidence the method of attack of the group seemed to be against groups of people at religious gatherings, rather than targeting specific low-profile individuals who have relocated. The RAD's assessment included the profile of the agent of persecution, the family friend, who is a local businessman from Rawalpindi and for whom no evidence indicates that his influence extends outside his community. The RAD also considered the tenant registration system in Pakistan and found that Applicant did not establish that his name is on a

list that would not only cause the police to take note of his name but make the connection with the SSP. The RAD determined the Applicant to be of a low-profile to the eyes of the SSP based on his long absence from Pakistan and the fact that the nature of his work is not political nor of high-profile.

[30] Considering these elements, the absence of any criminal charges against the Applicant, the fact that he had been in Canada for six years, and that the SSP had not approached his family in Pakistan to inquire about him since 2018, I find that it was reasonable for the RAD to conclude that the Applicant has not established that his agents of persecution would have the motivation to find and harm him in Hyderabad.

[31] I agree with the Applicant that terrorist groups such as the SSP cannot be expected to behave rationally. However, I find that the RAD did not express an expectation that the SSP would behave in such a way. I agree with the Respondent that in the case at bar, and contrary to *Franco Taboada* in the which the RPD was making a plausibility finding, the RAD was only noting that the Applicant had not provided evidence to support his fear that SSP maintained an ongoing interest in him.

B. *Assessment of the Evidence on Tenant Registration System and Police Corruption made by the RAD is reasonable*

[32] I also find the RAD's assessment of the evidence of the tenant registration system and police corruption is reasonable. The RAD did not refute the existence of the tenant registration system, but indeed considered the evidence on this system. The RAD specifically mentioned

having reviewed the country condition evidence of police corruption. What the RAD found is that considering the Applicant specific risks and fears of persecution, he has not demonstrated that, if he were to relocate to Hyderabad and register with the tenant registration system, the police would take interest in him and communicate his information to the SSP in order to locate him in the IFA location.

C. *The RAD Completed an Independent and Reasonable Assessment of the Evidence*

[33] In his submissions before this Court, the Applicant states the RAD did not conduct an independent assessment of the evidence and failed to grapple with the issues he raised. I am not persuaded.

[34] While the Applicant cites *Pintyi*, I find that the reasons at issue in that case were significantly shorter than in the case at bar. Justice Gleeson found that the RAD failed to grapple with the issues raised in respect of the adequacy of the RPD's discrimination analysis. The Applicants' written submissions on discrimination before the RAD were over sixty paragraphs in length, but the RAD addressed these submissions in only two short paragraphs and did not explain why the discrimination experienced individually or cumulatively does not rise to the level of persecution. (*Pintyi* at para 8). That is not the case here. The RAD conducted a detailed analysis and assessment of the evidence about the issues raised by the Applicant, including his profile and his risk upon his return to Pakistan.

[35] I find that the RAD considered the Applicant's specific circumstances as someone who converted to the Shia sect of Islam and who refused to marry the daughter of a family friend, a follower of the Sunni faith as well as the risks posed by SSP.

[36] The Applicant argues that the documentary evidence supports that SSP has the capacity to target Shia Muslims anywhere in Pakistan, including in Hyderabad. In my view, the RAD's assessment of the evidence on SSP is reasonable. The RAD specifically referred to the Applicant's submission that the Sindh province has been infiltrated by terrorist organizations and noted that it is reported in the documentary evidence that the influence of anti-Shia extremism has spread to this province and this to be of serious concern. However, the RAD determined that it does not establish that the IFA in Hyderabad would be unduly harsh for the Applicant and previously concluded he has not demonstrated that there is a serious possibility he would be persecuted or at risk there. Even though, as argued by the Respondent, the Applicant disagrees with the RAD on the extent of SSP's influence in the Sindh province, it is not sufficient to show that the RAD erred. I agree with the Respondent that the Applicant's arguments amount to a disagreement with the RAD's weighing of evidence, and that this is not a valid basis for judicial review.

VIII. Conclusion

[37] I find the Applicant has not met his burden to establish that the Decision is unreasonable.

[38] The application for judicial review is dismissed.

JUDGMENT in IMM-9353-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There are no questions to be certified.

"L. Saint-Fleur"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: IMM-9353-21

STYLE OF CAUSE: WASIF KHAN DURANI v THE MINISTER OF
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CANADA

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