

Federal Court



Cour fédérale

Date: 20250409

Docket: IMM-230-24

Citation: 2025 FC 654

Ottawa, Ontario, April 9, 2025

PRESENT: The Honourable Madam Justice Tsimberis

BETWEEN:

ROOP SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr. Roop Singh [Applicant], a citizen of India, seeks judicial review of the Refugee Appeal Division [RAD] decision dated December 21, 2023 [Decision] that confirmed the Refugee Protection Division's [RPD] rejection of the Applicant's refugee protection claim that the Applicant is neither a Convention refugee nor a person in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. Like

the RPD before it, the RAD found that the availability of a viable internal flight alternative [IFA] in Thiruvananthapuram, Jaipur, and Mumbai [IFA locations] was the determinative issue and found the Applicant had a viable IFA in the IFA locations.

[2] Both the RAD and the RPD held that the Applicant has a low and geographically restricted political profile as a Congress Party worker, who had been threatened and beaten by unknown local Bharatiya Janata Party [BJP] supporters in the Haryana state of India in the context of clashes between supporters from two opposing political parties.

[3] On the first prong of the IFA test, the RAD found that the Applicant has not established that the BJP and its local leaders including Sunitha Duggal [SD] [agents of persecution] have the means or the motivation to pursue, track and locate the Applicant in the IFA locations. The factors supporting that finding, which went unchallenged by the Applicant before the RAD were: (a) the agents of persecution are only local unknown members of the BJP located in Haryana; (b) the Applicant did not establish a link between those local unknown members and their actions; and (c) the BJP leadership or the party itself, either locally or nationally, or that those local members have the reach outside their local area giving them the means to track him nationally or to the IFA locations.

[4] In its independent review of the evidence on the record, the RAD corrected a finding of the RPD that had accepted the Applicant's testimony that in the four years since he left India, BJP supporters and the police separately visited his home asking about his whereabouts. During the visits, the BJP members issued threats against the Applicant that were conveyed to his family, and the police came and asked about him and when they did not find him, they did

nothing else and left. Since the Applicant has no personal knowledge of such visits since they are alleged to have taken place after he left India and the only direct corroborative evidence about those alleged visits is from his father, whose affidavit was deemed fraudulent by the RPD and is entitled to no weight, the RAD found there was insufficient credible evidence to establish that these visits occurred. The Applicant did not challenge the RPD's findings on the fraudulent nature of his father's affidavit before the RAD. Absent credible evidence of such visits, the RAD concluded that there is no evidence of continuing interest by the agents of persecution in the Applicant since October 2018.

[5] However, the RAD confirmed that the finding had no impact on the RPD's determinative IFA conclusion. The RAD continued its analysis in the alternative. Even if such visits did occur, the RAD agreed with the RPD's other unchallenged findings relating to those visits. As for some arguable evidence of continued visits by the BJP workers, their lack of means to track the Applicant is determinative of the alleged risk at their hands. As for the police visits, there is insufficient evidence to establish that: (a) the police visits were linked to the Applicant's issues with the BJP workers; (b) why the police wanted to see the Applicant or that they sought to arrest or harm him; (c) that there are any charges, First Information Reports or other formal documents such as warrants or summonses against the Applicant; and (d) that they made any effort to locate the Applicant other than by visiting his home in his local area. The RAD held that the evidence is insufficient to establish that the local police in Haryana have a continuing interest in the Applicant such that there is a serious possibility that they would continue to search for him or that they would search for him outside his local home area.

[6] At the hearing, the Applicant abandoned his arguments at paragraphs 27 through 30 of his Memorandum of Facts and Law, which will not be dealt with in this judgment.

[7] Before the Court, the Applicant has not challenged the second prong of the IFA analysis. Rather, the Applicant has challenged the RAD's conclusion on the first prong of the IFA analysis. The Applicant submits that the RAD reversed the RPD's prior credibility determination that the police had made subsequent visits to his family to solicit his whereabouts, without providing the Applicant with its legally entitled notice of its credibility concerns and of the new credibility issue (*Canada (Citizenship and Immigration) v Alazar*, 2021 FC 637 [*Alazar*]).

[8] The Applicant also submits that the RAD's application of the leading relevant case law on the risk to the Applicant being located through his family was egregiously flawed and false as it does not require that the visited members be "harassed or threatened" to confirm that the agents of harm have the ability or means to locate the Applicant through those family members.

[9] The Respondent submits that RAD's Decision is reasonable; the RAD's finding did not constitute a new issue requiring an *Alazar* procedural fairness notice; the Applicant relies on an inaccurate reading of this Court's jurisprudence regarding inquiries of the family made by the agents of persecution; and invokes a fraudulent affidavit from the RPD file that was unchallenged before the RAD as a basis to challenge the RAD's Decision.

[10] For the reasons that follow, this Application for judicial review is dismissed. The RAD reasonably assessed the Applicant's submissions and evidence against the accepted test for an

IFA and reasonably found the Applicant had viable IFAs. The RAD's finding reversing the RPD's finding on the existence of the visits to the Applicant's family by the agents of persecution and the police did not constitute a new issue requiring a procedural fairness notice and does not raise a procedural fairness issue.

II. Relevant Law

[11] The parties agree that the Court must review the RAD's findings regarding the existence of a viable IFA against the reasonableness standard (*Kumar v Canada (Citizenship and Immigration)*, 2022 FC 1440 at para 22; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 25). The burden is on the party challenging the Decision to show that it is unreasonable (*Vavilov* at para 100). To avoid intervention on judicial review, the decision must bear the hallmarks of reasonableness – justification, transparency, and intelligibility (*Vavilov* at para 99). Flaws or shortcomings must be “more than merely superficial or peripheral to the merits of the decision” or a “minor misstep” (*Vavilov* at para 100; *Canada (Citizenship and Immigration) v Mason*, 2021 FCA 156 at para 36). A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125).

[12] The parties also agree that the underlying principles to an IFA analysis is that international protection can only be provided if the country of origin cannot offer adequate protection throughout its territory to the person claiming refugee status. A Convention refugee and a person in need of protection must be found to face the identified risk in every part of their country of origin. This test requires a claimant to satisfy the Board of a well-founded fear of

persecution in their part of the country, and, in finding the IFA, the Board must be satisfied, on a balance of probabilities, of two things:

- a. There is no serious possibility of the claimant being persecuted or subject to a section 97 danger or risk in the part of the country to which it finds an IFA exists; and
- b. Conditions in that part of the country must be such that it would not be unreasonable in all the circumstances, including circumstances particular to him, for the claimant to seek refuge there.

(Rasaratnam v Canada (Minister of Employment and Immigration), 1991 CanLII 13517 (FCA), [1992] 1 FC 706 (CA) at 711, and *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589 at 597 (CA) at 592)

[13] The parties also agree on the test for determining whether a viable IFA exists is two-pronged. First, the RAD must be satisfied on a balance of probabilities that there is no serious possibility of persecution or risk, which can only be found if it is demonstrated that the agents of persecution have the probable means and motivation to search for an applicant in the suggested IFA (*Saliu v Canada (Citizenship and Immigration)*, 2021 FC 167 at para 46, citing *Feboke v Canada (Citizenship and Immigration)*, 2020 FC 155 at para 43). Second, the RAD must also be satisfied that, in all the circumstances, including the Applicant's particular circumstances, the conditions in the proposed IFA are such that it is not unreasonable for the Applicant to seek refuge there (see *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA), [2001] 2 FC 164 (FCA) [*Ranganathan*] at para 15).

III. Issues & Threshold to Establish Unreasonableness

[14] The sole issues before the Court are:

A. Did the RAD commit a breach of procedural fairness by failing to provide the Applicant with the opportunity to respond to its reversal of the RPD's finding accepting that BJP workers and the police have made subsequent visits to the family?

B. Did the RAD misapply the leading relevant case law to the Applicant's risk of being located in the IFA locations through his family?

[15] The threshold to establish unreasonableness is very high, requiring "nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area" (*Ranganathan* at para 15).

IV. Analysis

A. *No breach of procedural fairness resulting from the new finding of no subsequent visits to the family*

[16] The RAD did not breach the Applicant's right to procedural fairness.

[17] The Applicant submits that the RAD committed a reviewable error in law by failing to provide it with an opportunity to respond to its reversal of the RPD's determinative credibility finding, which unfairly proved to be fatal to the Applicant's refugee appeal. The Applicant argues the RPD had determined that he had credibly established that the police had made subsequent visits to his family to solicit his whereabouts. The Applicant had relied upon the RPD's determination to support its argument on appeal that his agents of harm can locate him in

the IFA locations through his family, with whom he is and will continue to be in contact so they will know of his location, and they should not be expected to place their lives in danger by denying knowledge of his whereabouts. The Applicant submits he was legally entitled to an *Alazar* notice of the new credibility issue affording him the opportunity to make submissions. The Applicant relies on *Kwakwa v Canada (Citizenship and Immigration)*, 2016 FC 600 [Kwakwa] at paragraphs 21 through 25 where the Court found the process followed by the RAD contravened the rules of natural justice and infringed Mr. Kwakwa's right to a fair hearing:

[21] In various recent decisions, this Court has confirmed the limits to which the RAD must be held in conducting its analysis on appeal of RPD's decisions. As pointed out by Mr. Justice Hughes in *Husian* at para 10, "[t]he point is that if the RAD chooses to take a frolic and venture into the record to make further substantive findings, it should give some sort of notice to the parties and give them an opportunity to make submissions."

[22] **The RAD cannot give further reasons based on its own review of the record, if the refugee claimant had not had the chance to address them.** In *Ortiz* at para 21, Mr. Justice Shore took issue with the fact that the RAD did not stop its analysis to an assessment of the RPD's decision but made additional credibility findings against the applicant. [...]

[23] In *Ortiz*, Justice Shore referred to and summarized Madam Justice Kane's recent decision in *Koffi v Canada (Citizenship and Immigration)*, 2016 FC 4 [Koffi], which also dealt with independent findings made by the RAD:

[22] In *Koffi*, above, Justice Catherine M. Kane stated that even if the RAD made independent findings of credibility against an applicant, without putting it before the applicant and giving him or her the opportunity to make submissions, the RAD's decision may still be reasonable. This is the case where "the RAD did not ignore contradictory evidence on the record or make additional findings on issues unknown to the applicant" (*Koffi*, above at para 38). In the present case, the Court does not find that this exception applies. As an example, the RAD independently held that the police report does not appear to conform to the normally followed process, as described in the documentary evidence (see para 48 of the RAD's decision). The RAD is therefore

raising doubts about the genuineness of the police report, an issue which was not discussed by the RPD, and, neither put forth to the Applicant. As a result, the Court finds that a breach of procedural fairness occurred.

[24] In other words, the RAD is entitled to make independent findings of credibility or plausibility against an applicant, without putting it before the applicant and giving him or her the opportunity to make submissions, but this only holds for situations where the RAD does not ignore contradictory evidence or make additional findings or analyses on issues unknown to the applicant.

[25] In *Ching v Canada (Minister of Citizenship and Immigration)*, 2015 FC 725, the Court concluded that, when a new question and a new argument have been raised by the RAD in support of its decision, the opportunity must be given to the applicant to respond to them. In that case, the RAD had considered credibility conclusions which had not been raised by the applicant on appeal of the RPD decision. This amounted to a “new question” on which the RAD had the obligation to advise the parties and offer them the opportunity to make observations and provide submissions. [...] **A “new question” is a question which constitutes a new ground or reasoning on which a decision-maker relies, other than the grounds of appeal raised by the applicant, to support the valid or erroneous nature of the decision appealed from.**

[26] This is the case here. I conclude that, in reaching its decision, the RAD identified additional arguments and reasoning, going beyond the RPD decision subject to appeal, and yet did not afford Mr. Kwakwa with an opportunity to respond to them. More specifically, the RAD relied on arguments about the wording of Mr. Kwakwa’s Congolese identity documents and asserted that there ought to be an address in the heading of the voter identity card and that a journalist card should not ask authorities to cooperate with the journalist. I find that the RAD made a number of additional comments regarding the documents submitted by Mr. Kwakwa in support of his Congolese identity, and that were not raised or addressed specifically by the RPD. It may be that these findings and arguments can effectively be supported by the evidence on the record, but I agree with Mr. Kwakwa that he should at least have been given an opportunity to respond to those arguments and statements made by the RAD before the decision was issued.

[Emphasis added by the Applicant]

[18] In my view, the *Kwakwa* decision cited by the Applicant can be distinguished on the particular facts. In *Kwakwa*, the RPD had not made firm conclusions on the fraudulent nature of certain documents in issue, while in the case before me, the RPD did conclude that the Applicant's father's affidavit attesting to the visits of the agents of persecution and the police was fraudulent. As pointed out by Justice Strickland who reviewed the *Kwakwa* decision at paragraph 35 in *Tan v Canada (Citizenship and Immigration)*, 2016 FC 876 [*Tan*]:

[35] In *Kwakwa v Canada (Citizenship and Immigration)*, 2016 FC 600 at para 24 [*Kwakwa*], Justice Gascon found that the RAD is entitled to make independent findings of credibility or plausibility against a claimant, without putting it before the claimant and giving him or her the opportunity to make submissions, but only in situations where the RAD does not ignore contradictory evidence or make additional findings or analyses on issues unknown to the claimant. That exception did not apply in *Ching*, *Ojarikre* and *Jianzhu* or in the matter before him. In *Kwakwa*, the RPD had not made firm conclusions on the fraudulent nature of certain documents in issue. Justice Gascon found that it was not a situation where the RAD simply assessed the evidence on file independently. Instead, the RAD identified new arguments that were not raised or addressed specifically by the RPD.

[19] *Alazar* is clear that there is no “new issue in the sense that it is **legally and factually distinct** from the grounds of appeal advanced and cannot be said to stem from the issues on appeal as framed by the parties” (*Alazar* at para 77, emphasis added). In the case before me, the RAD did not raise a new issue as it addressed the issue raised by the Applicant in its Appellant's Memorandum:

3. The grounds for this appeal are:

- i. That the Refugee Protection Division based its decision upon an erroneous finding of fact that was made in a perverse or capricious manner or without regard to the complete material before it.

9. The RPD determined that the agent of persecution in this matter has neither the means nor motivation to locate and harm the [Applicant] in the proposed IFA locations in India. The RPD accepted that the agents of persecution have attended his family home to ask about him and threaten him. However, the RPD concluded that the [Applicant] did not state that the BJP workers or the police have threatened, abused, or harmed his family in any way in their questioning. Thereafter, the RPD concluded "But even more so, even if the claimant's family were not to live with him in any of the IFA locations, but they would know where he lived, I do not find that merely requiring his family to continue telling these BJP workers and police the same thing they have been telling them over the last four years, would be unreasonable or amount to requiring the claimant to live in hiding."

RPD Decision and Reasons at para. 36

10. The [Applicant] respectfully submits the RPD erred in their assessment of the forgoing, particularly as it relates the means and motivation of the agents of harm. The [Applicant] submits the mere fact that his family, which includes his elderly parents, wife and two children, has not yet been harmed does not establish on a balance of probabilities that the agent of harm lacks the means and motivation to do so. The [Applicant] submits that the agent of harm's threatening of both him directly to his family displays their motivation as well as their means in harming him.

18. The [Applicant] also submits that the local police are part of the agents of persecution.

(Paras 3, 9, 10, 18 of the Appellant's Memorandum at pages 29, 31, 33 of the Certified Tribunal Record)

[20] In addition, in the case before me, the RAD addressed the same determinative issue that was before the RPD, namely the IFA determination.

[21] I agree with the Respondent that the RAD's finding that there is insufficient evidence to establish the visits by the agents of harm and the Haryana police after the Applicant's departure from India is not a new issue related to credibility but rather the result of the RAD's necessary

review of the evidentiary record pertaining to the alleged visits, which is a sufficiency analysis of the record already before the RPD. The post-departure visits by the agents of harm and the police were only alleged in: (1) the affidavit of the Applicant's father before the RPD and the RAD that the RPD had deemed fraudulent, and (2) the testimony of the Applicant at the hearing. The Applicant had no direct, personal knowledge of the visits as he testified that his family had informed him of the visits. The RAD (and the RPD before it) did not need to doubt the Applicant's testimony that his family told him about the visits to make his finding. The RAD correctly noted that the presumption of truthfulness does not apply to hearsay evidence when it concluded that the Applicant's father's affidavit was fraudulent and entitled to no weight. In *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1764, Justice Rochester, as she then was, held:

[13] I agree with the Respondent. Uncorroborated statements made by persons with a personal interest in the outcome tend to have little probative value (*Ferguson v Canada (Citizenship and Immigration)*, 2008 FC 1067 at para 27; *Atafo v Canada (Citizenship and Immigration)*, 2022 FC 922 at para 19). In the present case, we do not even have such a statement.

[14] The Principal Applicant did not witness the interaction with the police and has no personal knowledge of it. He was at best simply repeating what he was told by his brother. This is the very definition of hearsay. The presumption of truth established in *Maldonado* finds no application here because the RAD does not doubt that the Principal Applicant spoke with his brother. Rather what is at issue is whether sufficient evidence had been adduced to demonstrate that the police had in fact been searching for him and the reasonableness of the explanation for failing to obtain a statement from his brother.

[22] The RAD reasonably concluded that it was a mistake for the RPD to accept that the visits had occurred based on hearsay alone. Consequently, the RAD's conclusion that there was

insufficient credible evidence to establish that the post-departure visits occurred was not unreasonable as there was no credible evidence of them on the record.

[23] The fact that the RAD saw the evidence differently after its independent assessment of the evidence is not a basis to challenge the Decision on this ground when no new issue was raised (*Onkoba v Canada (Citizenship and Immigration)*, 2023 FC 1184 at para 49, citing *Ibrahim v Canada (Citizenship and Immigration)*, 2016 FC 380 at para 30). I refer to Justice Strickland's summary of the state of the law in *Tan* at paragraph 40 in which I have put emphasis in bold the parts that are applicable in the case before me:

[40] What I take from the above is that, in the context of a RAD appeal, where neither party raises or where the RPD makes no determination on an issue, it is generally not open to the RAD to raise and make a determination on the issue, as this raises a new ground of appeal not identified or anticipated by the parties thereby potentially breaching the duty of procedural fairness by depriving the affected party of an opportunity to respond. This is particularly so in the context of credibility findings (*Ching* at paras 65-76; *Jianzhu* at para 12; *Ojarike* at paras 14-23). **However, with respect to findings of fact and mixed fact and law which raise no issue of credibility, the RAD is to carefully review the RPD's decision, applying the correctness standard, and then carry out its own analysis of the record to determine whether the RPD erred. If so, the RAD may substitute its own determination on the merits of the claim to provide a final determination** (*Huruglica FCA* at para 103). That is, the RAD is to conduct a hybrid appeal. The RAD is not required to show deference to the RPD's findings of fact (*Huruglica FCA* at para 58). And, **when addressing issues raised by the parties, the RAD is entitled to perform an independent assessment of the record before the RPD** (*Sary* at para 29; *Haji* at paras 23 and 27; *Ibrahim* at para 26) **and to refer to evidence that supports the findings or conclusions of the RPD** (*Kwakwa* at para 30; *Sary* at para 31). **In my view, the necessary corollary of this is that the RAD is also permitted to refer to evidence in the record before the RPD to explain why it believes the RPD erred with respect to an issue raised on appeal or why it does not agree with the RPD's findings of fact. Such reasons do not, in and of**

themselves, give rise to a new issue. The fact that the RAD views some of the evidence differently from the RPD is not a basis to challenge the RPD's decision on fairness grounds when no new issue has been raised (*Ibrahim* at para 30).

[Emphasis added]

[24] As I was reminded by the Respondent who cited my judgment in *Sameed v Canada (Citizenship and Immigration)*, 2024 FC 1384 at paragraph 29, this finding of the RAD attracts a high degree of deference by this Court. This Court should not disabuse itself of the deference owed to these credibility findings on the Applicant's mere insistence to the contrary. Furthermore, the RAD's Decision provides an alternative analysis if there had been visits to the Applicant's family home since his departure from India (see paragraph 5 above), demonstrating that he still benefitted from viable IFA locations and that the RAD's reversal of the RPD's finding on the existence of the visits did not modify the determinative issue.

B. *The RAD reasonably applied the leading relevant case law to the Applicant's risk of being located in the IFA locations through his family*

[25] The RAD's finding under review is the following at paragraph 22 of its Decision:

[22] In the alternative, even if it did occur, I do not find that a relatively few visits to the [Applicant]'s family at the same home where they and the [Applicant] always lived with questions about his whereabouts is evidence establishing a serious possibility that the agents of persecution could locate the [Applicant] through his family. It is not indicative of an ability to locate the [Applicant] at any place other than his known home. **Even if there is evidence that the agents of persecution periodically asked his father about his whereabouts, there is no evidence that they harassed or threatened his father or his family (other than threats directed at the [Applicant]) or that his father or his family are in danger by reason of the inquiries made about the [Applicant].** This is more like the situation before the Federal Court in *Onukuba*, where the Court distinguished the *Ali* decision

on its facts because, unlike in *Ali*, in *Onukuba*, there was no evidence that the agent of persecution had threatened or would threaten the family members should they refuse to disclose the claimants' whereabouts or that the agent of persecution posed any threat to the family members. Therefore, the evidence did not support the argument that the claimants would be required to hide their location in the IFA cities from their family members. That is the situation in this appeal. There is no evidence that the alleged agents of persecution, including the police, have threatened or will threaten the [Applicant]'s family members in India. To the same effect are decisions such as *Shakil Ali* and *Kodom* in which the Court cautioned (as acknowledged by the [Applicant] in his memorandum) that the holdings in the cases cited by the [Applicant] are fact-specific and cannot be generalized to every IFA situation. Therefore, I find that the [Applicant] has not established that there is a serious possibility of him being located by the agents of persecution through his family, or that he will be unable to disclose his whereabouts in the IFA Location to his family. Further, I find that he will not be required to live in hiding from his family and that this factor does not make the IFA Locations either unsafe or unreasonable as IFAs.

[Emphasis added by the Applicant, citations omitted]

[26] The Applicant submits that the leading relevant case law does not require that the visited family members be “harassed or threatened” to confirm that the agents of persecution have the ability or the means to locate the Applicant through those family members. The Applicant submits the above-cited case law of *Ali v Canada (Citizenship and Immigration)*, 2020 FC 93 [Ali] at paragraphs 49-52, *A.B. v Canada (Citizenship and Immigration)*, 2020 FC 915 [A.B.] at paragraphs 20-21 citing *Zamora Huerta v Canada (Citizenship and Immigration)*, 2008 FC 586 [Zamora Huerta], to confirm that, because the Applicant’s family has merely been “repeatedly visited” by his agents of harm in search of him, they have the means to locate him throughout India, unless he hides his whereabouts from his family, which – as the case law has established – would be unreasonable to compel the Applicant to live in hiding in the IFA locations.

[27] The Respondent submits that the Applicant relies on an inaccurate reading of this Court's jurisprudence regarding risk to the Applicant being located in the IFA locations from further inquiries made by the agents of harm. The Respondent relies on *Kodom v Canada (Citizenship and Immigration)*, 2023 FC 305 at paragraphs 13-14:

[13] In *Shakil Ali v Canada (Citizenship and Immigration)*, 2023 FC 156, the Court stated that: "Relying on cases such as *Ali v Canada (Citizenship and Immigration)*, 2020 FC 93, and *AB v Canada (Citizenship and Immigration)*, 2020 FC 915, the applicants also argue that if they return to India, they will need to withhold their contact information from family and friends, which amounts to living in hiding. **The holdings in these cases are fact-specific and cannot be generalized to every IFA situation: *Essel v Canada (Citizenship and Immigration)*, 2020 FC 1025 at paragraph 15. Moreover, such an assertion must be assessed based on the facts found by the RAD, not on the facts alleged by the applicants: *Pastrana Acosta c Canada (Citoyenneté et Immigration)*, 2023 CF 139 at paragraphs 6–9".**

[14] Mr. Kodom's situation and evidence is factual distinctively different than the one outlined in the *Ali* decision he relied on. There is here no evidence that Mr. Kodom's family would be threatened in disclosing his location, and notably there is likewise no evidence that once in Accra, Mr. Kodom would be unable to share his location information with his family, or again that he would have to cease all communication with them.

[Emphasis added]

[28] Similar to the situation of Mr. Kodom in the above-referenced case, the Applicant's situation and evidence is factually distinctively different than the one outlined in the *Ali* decision and the *A.B.* and *Zamora Huerta* decisions. In Justice Gascon's words in *Singh v Canada (Citizenship and Immigration)*, 2023 FC 1715 at paragraphs 47-48:

[47] In any event, the cases relied upon can be distinguished from the present matter. In *Ali*, *AB*, and *Zamora Huerta*, there were dire and serious threats of harm and violence made against the family members themselves. There was evidence that the applicants' relatives would be in danger themselves if they lied to the

persecutors about the applicants' whereabouts; there was also evidence that the persecutors had the capacity and willingness to pursue the applicants in their new locations based on their acquired information. There is no such evidence here. As noted above, the RAD reasonably determined that there is no evidence of any capacity of the local Jalandhar police to locate Mr. Singh and his family outside of Jalandhar.

[48] As noted by the Court in *Singh v Canada (Citizenship and Immigration)*, 2023 FC 1151, the holdings in these three cited cases are fact-specific and cannot be generalized to every IFA situation. In the current case, there was insufficient evidence that the agents of persecution had the motivation to locate Mr. Singh and his family. The Jalandhar police's mere knowledge of the latter's whereabouts, assuming the families would disclose it, does not establish a serious possibility of persecution or risk in the proposed IFA cities if the Jalandhar police have neither the means nor the motivation to act on it.

[29] I agree with the RAD that held that the Applicant's situation is like the situation before the Federal Court in *Onukuba v Canada (Citizenship and Immigration)*, 2023 FC 877

[*Onukuba*], where Justice Favel distinguished the *Ali* decision on its facts. In *Onukuba*, there was no evidence that the agent of persecution had threatened or would threaten the family members should they refuse to disclose the applicant's whereabouts or that the agent of persecution posed any threat to the family members:

[25] The Applicants do not directly challenge the RAD's finding but argue that the finding means they must effectively hide their whereabouts from family members should they return to Nigeria (*Zamora Huerta v Canada (Minister of Citizenship and Immigration)*, 2008 FC 586; *Ali v Canada (Citizenship and Immigration)*, 2020 FC 93 (*Ali*)).

[26] I do not find the Applicants' argument persuasive for two reasons. First, the argument that they would be forced to live in hiding assumes that the uncle has the means to locate them in the proposed IFAs, contrary to the RAD's finding. Second, the Applicants provided no evidence that the uncle has or would threaten their family members should they refuse to disclose the Applicants' whereabouts. The facts and evidence before the RAD

differ markedly from those in *Ali*, where the Court found (at para 50) that the applicants would have to hide from family members should they be required to return to Pakistan “[g]iven the dangers posed by knowledge of their whereabouts, or even their return to Pakistan”. There is no evidence in the present case that the uncle poses any threat to family members.

[30] Given there is no evidence that the Applicant’s family would be threatened in disclosing his location and there is likewise no evidence that the Applicant would be unable to share his location information with his family once in the IFA locations, or that he would have to cease all communication with them and live in hiding, it was reasonable for the RAD to conclude that the Applicant has not established that he will face a serious possibility of being located in the IFA locations through his family and will therefore not face a serious possibility of persecution or risk in the proposed IFA locations (*Kodom* at para 14).

V. Conclusion

[31] Given the record and the evidence before the RAD in this case, its Decision bears the hallmarks of reasonableness – justification, transparency, and intelligibility. Numerous factors led the RAD to conclude that the agents of persecution and the Haryana police do not have the motivation and means to track down the Applicant in the proposed IFA. The RAD’s finding reversing the RPD’s finding on the existence of the visits to the Applicant’s family by the agents of persecution and the police did not constitute a new issue requiring a procedural fairness notice and does not raise a procedural fairness issue.

[32] The Application for judicial review is dismissed, noting that neither party proposed a question of general importance for certification.

JUDGMENT in IMM-230-24

THIS COURT'S JUDGMENT is that:

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

"Ekaterina Tsimberis"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-230-24

STYLE OF CAUSE: ROOP SINGH v THE MINISTER OF CITIZENSHIP
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PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: FEBRUARY 5, 2025

JUDGMENT AND REASONS: TSIMBERIS J.

DATED: APRIL 9, 2025

APPEARANCES:

JONATHAN GRUSZCZYNSKI	FOR THE APPLICANT
BRUNO OLIVIER BUREAU	FOR THE RESPONDENT

SOLICITORS OF RECORD:

CANADA IMMIGRATION TEAM WESTMOUNT, QC	FOR THE APPLICANT
ATTORNEY GENERAL OF CANADA MONTREAL, QC	FOR THE RESPONDENT