

Federal Court



Cour fédérale

Date: 20250414

Docket: IMM-4390-24

Citation: 2025 FC 689

Ottawa, Ontario, April 14, 2025

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

**BALJEET SINGH
JASVIR KAUR
RANVEER SINGH
TARANVEER SINGH**

Applicants

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants, Baljeet Singh [Principal Applicant], Jasvir Kaur, Ranveer Singh and Taranveer Singh [Applicants], are citizens of India who allege a fear of persecution in their country of origin. They seek judicial review of a decision dated February 21, 2024, where the

Refugee Appeal Division of the Immigration and Refugee Board of Canada [RAD] rejected their refugee claim [Decision] on the grounds that they are not refugees nor persons in need of protection within the meaning of sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The RAD confirmed the Refugee Protection Division [RPD] decision and found that the Applicants have a viable Internal Flight Alternative [IFA].

[2] On judicial review, the Applicants only challenged the RAD's Decision with respect to the second prong analysis of the IFA test as it relates to their claim of persecution as pro-Khalistan supporters. The Applicants submit that the RAD did not consider the unreasonableness of the IFA because they would be unable to express their political opinions.

[3] For the reasons that follow, this application for judicial review is dismissed. The Decision sufficiently addressed the Applicants' arguments and considered their political beliefs in the context of the IFA. I cannot find that the Decision is unreasonable.

II. Background and Decision Under Review

[4] The Applicants are a family consisting of the Principal Applicant, his wife and their two children. The Applicants' claim is based on the Principal Applicant's alleged persecution by the Punjab police because of his suspected political affiliation with Khalistan militants, and since their arrival in Canada, their support of Khalistan. They also stated that they were members of Sikhs for Justice [SFJ], among other things.

[5] On October 18, 2023, the RPD found that the Applicants failed to demonstrate that the Punjab police would have the means and the motivation to track them outside of their state. The RPD found that based on the Principal Applicant's testimony, he did not establish, among other things, that he had a profile as an advocate or active supporter for Khalistan that would come to the attention of the authorities in India. Hence, the Principal Applicant's profile did not put them at risk. The RPD found that it would not be objectively unreasonable for the Applicants to relocate to the IFA.

[6] On February 21, 2024, the RAD confirmed the RPD's decision that both prongs of the legal test for an IFA were satisfied. The RAD found, on the cumulative analysis of the evidence, that the agents of persecution did not have the motivation to locate the Applicants in the IFA. The RAD did not believe it was necessary to address the issue of the means to locate the Applicants in significant detail because it had already concluded that the agents of persecution lacked motivation (citing *Kumar v Canada (Citizenship and Immigration)*, 2012 FC 30).

[7] Under the first prong, the RAD assessed the Applicants' pro-Khalistan activities in Canada and found that they did not put the Applicants at risk. The RAD found, as did the RPD, that the Principal Applicant did not have the public profile that would come to the attention of the authorities in India to the extent that, on a serious possibility standard, they would be persecuted by the authorities for their political beliefs and activities should they return to India.

III. Issues and Standard of Review

[8] The issue on judicial review is whether the RAD's Decision was unreasonable as it relates to the analysis of the second prong of the IFA test.

[9] The parties submit that the standard of review with respect to the merits of the Decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 25). I agree that reasonableness is the applicable standard of review.

[10] On judicial review, the Court must consider whether a decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (Vavilov at para 99). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (Vavilov at para 90). A decision may be unreasonable if the decision maker misapprehended the evidence before it (Vavilov at paras 125-126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (Vavilov at para 100).

IV. Analysis

[11] A claimant has an IFA when (1) they will not be subject to a serious possibility of persecution nor to a risk of harm under sections 96 and 97 of the IRPA in the proposed IFA location and (2) it would not be objectively unreasonable for them to seek refuge there, taking into account all the circumstances. Both prongs need to be satisfied to conclude that a claimant has an IFA (*Bassi v Canada (Citizenship and Immigration)*, 2024 FC 910 at paras 15-16 [Bassi])

citing *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA), [1992] 1 FC 706 and *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589 (FCA) at pp 597-598 [*Thirunavukkarasu*]).

[12] With respect to the first prong of the IFA test, an applicant must demonstrate that the proposed IFA is unreasonable because they fear a possibility of persecution throughout their entire country. An applicant must establish that the agents of persecution have both the means and the motivation to cause harm on a prospective basis (*Bassi* at para 17, other citations omitted).

[13] The threshold on the second prong of the IFA test is a high one. There must be “actual and concrete evidence” of conditions that would jeopardize an applicant’s life and safety in travelling or temporarily relocating to a safe area. Once the potential for an IFA is raised, the applicant bears the onus of establishing that it is not viable (*Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at para 9 [*Olusola*] citing *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA), [2001] 2 FC 164 at para 15 and *Thirunavukkarasu* at pp 594-595). If a claimant has a viable IFA, this will negate a claim for refugee protection under either section 96 or 97 (*Olusola* at para 7).

[14] The Applicants submit that the RAD and the RPD both found that the Principal Applicant was a supporter of Khalistan, and generally credible. The Applicants argue that having made that finding, the RAD failed to address the Principal Applicant’s risk as a Khalistan supporter and his

claim that he would be unable to publicly support and convey his belief freely, rendering the IFA unreasonable under the second prong.

[15] At the hearing, the Applicants acknowledged *Singh v Canada (Citizenship and Immigration)*, 2024 FC 1483 [*Singh 2024*] and *Singh v Canada (Citizenship and Immigration)*, 2025 FC 314 [*Singh 2025*] where the Court considered similar arguments. In those cases, the applicants had argued that the RAD should have specifically considered their ability to express their deeply held pro-Khalistan beliefs in the IFA locations under the second prong analysis, despite having already impugned the significance of these beliefs under the first prong. The Court rejected this argument, based on the finding that the applicants' argument under the second prong was inexorably linked to the RAD's finding, under the first prong, pertaining to their alleged fear of persecution on the basis of their pro-Khalistan advocacy (*Singh 2024* at para 32).

[16] The Applicants submit that in both *Singh 2024* and *Singh 2025*, the RAD was alive to the issue and acknowledged the argument that the applicants should not have to "suppress their identity" in the IFA. Further, the RAD's assessment of the applicants' pro-Khalistan beliefs under the first prong was so thorough that the RAD was not required to repeat the same type of analysis under the second prong and did not err in not doing so. The Applicants acknowledged that in those cases, the analysis by the RAD under the first prong was such that "it made sense to conclude that there was nothing left to analyze under the second prong."

[17] The Applicants concede that in their case, the RAD was alive to the issue and argument that their political beliefs were an inherent part of their identity and that they should not be

required to renounce their beliefs to avoid persecution (citing *Gur v Canada (Citizenship and Immigration)*, 2012 FC 992 at para 22).

[18] The Applicants state, however, that there are two important distinctions from the *Singh 2024* and *Singh 2025* decisions to theirs. In both cases, the RAD had found that the applicants were not true supporters. Secondly, in both decisions, the RAD specifically addressed Tab 12.8 of the National Documentation Package [NDP] in the analysis under the first prong that justified not having undertaken this analysis under the second prong.

[19] In this case, under the first prong, the Applicants state that the RAD failed to address their political beliefs and specifically Tab 12.8 of the NDP, which was the only objective evidence that addressed such a risk for pro-Khalistan supporters. Instead, the only mention of Tab 12.8 is in the second prong, but only in the RAD's assessment of the Sikh religion. As such, there is no answer in the Decision with respect to the reasonableness of the IFA as it relates to their support for Khalistan.

[20] On the other hand, the Respondent underlines that the issue before the Court is whether the RAD erred on the second prong of the IFA test. In the first prong, the RAD dealt with the Applicants' pro-Khalistan support in India, in Canada, and in the future should they return to India. They did not contest the RAD's conclusion on that matter. The Applicants' arguments on the second prong should be rejected because the Applicants' claim was properly assessed under the first prong and they did not point to a reviewable error. The objective evidence did not apply

to the Applicants with regards to their political beliefs such that it would be unreasonable to relocate to the proposed IFA.

[21] With respect, I cannot agree with the Applicants' submissions. In the Decision, the RAD acknowledged the Applicants' argument that, "they allege on appeal that the NDP confirms that Sikhs advocating for Khalistan are by default called extremists and militants when Sikhs speak out against the ruling Bharatiya Janata Party's (BJP) policies [...]". The Court notes that this language from the Decision is quoted from the Applicants' memorandum of appeal to the RAD, where Tab 12.8 of the NDP was specifically cited.

[22] The RAD's Decision responds to this submission.

[23] The RAD acknowledged the Applicants' claim that their support for Khalistan is an inherent part of their identity and that preventing them from expressing it would infringe on their rights to express their political opinion in the name of self-censorship. It went on, however, to conclude that the kind of activities that the Principal Applicant engaged in while in Canada did not raise their profile to persons of interest to Indian authorities to the extent that on a serious possibility standard, they would be persecuted by these authorities should they return to India. The RAD then lists the evidence and findings of facts that they relied upon to make this finding, including references to a summary of the NDP evidence.

[24] The Decision also addresses the Applicants' "NDP-related evidence that speaks of the risk of harm to members of the SFJ." The RAD concluded that, taking all of the elements it had

considered, the Applicants are not likely, on a balance of probabilities, to become monitored by the Indian authorities.

[25] The RAD further noted that supporting an independent Khalistan is not illegal in India. It identified a registered political party in India whose objective is the creation of a separate Sikh Khalistan, as well as two candidates who unsuccessfully ran in the 2019 general election. The RAD outlined the type of political activity the party engaged in India, and further acknowledged that “some Khalistan supporters may be harassed and sometimes temporarily arrested by the authorities, but that it is not “systematic or constant mistreatment””. The RAD also outlined that should the Principal Applicant continue his support in India, he might be monitored but the evidence did not suggest that he would be subject to “systematic or constant mistreatment.”

[26] There was no evidence presented that contradicted these conclusions. The Decision, in my view, does sufficiently respond to the Applicants’ argument of an alleged jeopardy to their fundamental right to exercise their political opinion.

[27] Furthermore, the RAD considered and analyzed the Applicant’s argument at numerous instances in the Decision. While it did not specifically state “Tab 12.8 of the NDP,” the Applicants’ argument and reliance on Tab 12.8 was addressed in the Decision.

[28] I can do no better than to cite Justice Gascon in *Singh 2024* at paragraph 46:

[46] In any event, an administrative decision maker’s failure to mention evidence does not necessarily make a decision unreasonable (*Singh 2023* at para 35; *Valencia* at para 25; *Khira v Canada (Citizenship and Immigration)*, 2021 FC 160 at

para 48 [*Khir*]). It is well-settled law that administrative decision makers are presumed to have weighed and considered all the evidence before them unless proven otherwise (*Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 36). The failure to consider specific evidence must be viewed in context. It is only when the evidence is critical and squarely contradicts the decision maker's conclusion that the reviewing court may determine that the tribunal disregarded the material before it (*Singh 2023* at para 35; *Khir* at para 48; *Torrance v Canada (Attorney General)*, 2020 FC 634 at para 58). In this matter, there is no such crucial omission of evidence.

[29] In the Applicants' case, the RAD considered the objective evidence, and acknowledged the government's hostile attitude towards Khalistan activists, to conclude that the Principal Applicant's profile would not be the type of profile that would be persecuted in India. The RAD considered the Principal Applicant's past political activities and the perceived political profile that might result from those activities, but concluded that the Principal Applicant failed to demonstrate that this would place him at risk in the IFA.

[30] As noted, the language in the Decision is reflective of the Applicants' appeal submissions that identified Tab 12.8 of the NDP and addressed these submissions. As such, I cannot conclude that the RAD disregarded Tab 12.8.

[31] Furthermore, the RAD's assessment of risk to supporters in Khalistan in the Decision was not contradicted by Tab 12.8 of the NDP. Thus, in this context, a failure to specifically state "Tab 12.8 of the NDP" was not sufficient to support the assertion that the RAD disregarded material before it, rendering the Decision unreasonable. As a matter of fact, it is well established that the failure to consider specific evidence must be viewed in context. It is only when the

evidence is critical and squarely contradicts the decision maker's conclusion that the reviewing court may determine that the tribunal disregarded the material before it (*Singh 2024* at para 46).

[32] The crux of the Decision related to a reasonable finding that the Applicants were unable to support a fear of persecution or risk of harm throughout the entire country as a result of their pro-Khalistan beliefs. It was open to the RAD to conclude that the Applicants did not fit the profile of individuals who would be targeted for their political views or that they would be unable to freely express their political views. This conclusion is coherent and logical based on the record before the RAD.

[33] Thus, there was no longer any need for further analysis, whether under the first or second prong, when the RAD concluded that the Applicants did not have the profile that would attract the attention of authorities or that the exercise of any fundamental right was jeopardized (*Singh 2024* at paras 42-44).

[34] In this case, the Applicants were unable to demonstrate that they fit a certain profile that would experience persecution based on their support for Khalistan. The RAD found that they could still express their political beliefs and identities in India (therefore, not having to renounce or suppress them). As such, the Applicants were also not able to demonstrate that their exercise of any fundamental right was jeopardized. Without that factual basis, the RAD was not required in law to conduct any further analysis of the possible risks to the Applicants as advocates for Khalistan under either prong (*Singh 2024* at para 42; *Singh v Canada (Citizenship and Immigration)*, 2023 FC 297 at para 35).

[35] Similarly, when the RAD found that the alleged agents of persecution did not have the motivation to pursue the Applicants in the IFA, it was “unnecessary for the RAD to revisit [the] fear-related claims at the second stage of the IFA analysis.” (*Singh 2025* at paras 18-19; *Singh 2024* at para 44 citing *Kaur v Canada (Citizenship and Immigration)*, 2021 FC 1219 at para 22).

[36] Given my finding that in these circumstances, the RAD reasonably and properly assessed the Applicants’ arguments associated with their political identity and risk under the first prong, it was reasonable for the RAD not to specifically reassess this risk again under the second prong. Despite counsel’s able arguments, I cannot agree that the Decision is unreasonable warranting the Court’s intervention.

V. Conclusion

[37] The application for judicial review is dismissed. The RAD’s Decision meets the hallmarks of reasonableness, being coherent and rational in its analysis of the evidence and arguments provided.

[38] The parties do not propose any question for certification and I agree that in these circumstances, none arise.

JUDGMENT in IMM-4390-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Phuong T.V. Ngo"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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