

Federal Court



Cour fédérale

Date: 20250428

Docket: IMM-10991-23

Citation: 2025 FC 764

Ottawa, Ontario, April 28, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

HABIB UR REHMAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Habib Ur Rehman, seeks judicial review of the refusal of his application for a Pre-Removal Risk Assessment (“PRRA”) by a senior immigration officer (the “Officer”) on July 31, 2023.

[2] The Applicant submits that the negative PRRA decision is unreasonable and was rendered in a procedurally unfair manner. The Applicant submits that the Officer disregarded his evidence and failed to properly assess his *sur place* claim for protected person status.

[3] For the following reasons, I disagree. This application for judicial review is dismissed.

II. **Background**

[4] The Applicant is a citizen of Pakistan. He is a Shia Muslim of Kashmiri ethnicity.

[5] In 2019, the Applicant arrived in Canada. He submitted a refugee claim on the basis of religious persecution against Shia Muslims in Pakistan.

[6] The Refugee Protection Division (“RPD”) refused the Applicant’s claim on October 30, 2020. The Refugee Appeal Division (“RAD”) confirmed the decision of the RPD on March 9, 2021.

[7] The Applicant alleges that he became politically active in Canada following the issuance of the RAD decision. He attended protests about the persecution of Shia Muslims in Pakistan.

[8] In April 2021, the Applicant joined the United Kashmir People’s National Party (“UKPNP”). His name, photos, and speeches were reported in Pakistani newspapers. Photos of the Applicant were shared on Facebook by the UKPNP.

[9] The Applicant was invited to apply for a PRRA on December 1, 2022. In his PRRA application, the Applicant provided evidence of his political activities. He also provided a letter from his mother stating that police searched for the Applicant at his family's home in July 2022. His mother stated that the police "shoved [the Applicant's] father around and badly beat up [his] brother...They also humiliated [the Applicant's] father after taking him to the police station."

[10] On July 31, 2023, the Officer refused the Applicant's PRRA application. The Officer determined that the Applicant had failed to rebut the presumption of state protection with respect to his allegations of anti-Shia violence. The Officer further found that the Applicant would not be at risk due to his membership in the UKPNP, as there was insufficient evidence that the Pakistani government would become aware of his political activities.

III. **Issues and Standard of Review**

[11] The issues in this application are whether the Officer's decision is reasonable and procedurally fair.

[12] The parties submit that the applicable standard of review for the merits of the Officer's decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25) ("Vavilov"). I agree.

[13] The issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 37-56 ("Canadian Pacific Railway Company");

Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship), 2020 FCA 196 at para 35). I find that this conclusion accords with the Supreme Court of Canada's decision in *Vavilov* (at paras 16-17).

[14] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[15] For a decision to be unreasonable, an applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. 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). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep" (*Vavilov* at para 100).

[16] Correctness, by contrast, is a non-deferential standard of review. The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and*

Immigration), 1999 CanLII 699 (SCC), [1999] 2 SCR 817 (at paras 21-28; see also *Canadian Pacific Railway Company* at para 54).

IV. Analysis

[17] The Applicant submits the PRRA refusal is unreasonable and was rendered in a procedurally unfair manner. The Applicant submits that the Officer disregarded the letter from his mother and his country condition evidence about the persecution of Shia Muslims in Pakistan. He submits that the Officer dismissed his *sur place* claim based on the genuineness of his political convictions rather than the state's interest in targeting him for his political activism. The Applicant further submits the Officer breached his procedural rights by conducting further research on the situation of Shia Muslims in Pakistan without disclosing the sources of their research to the Applicant.

[18] The Respondent submits that the Officer's decision is reasonable and procedurally fair. The Respondent submits that the Officer considered the Applicant's submissions and simply determined that they were not sufficient to establish risk under sections 96 and 97 of the IRPA. The Respondent argues that the Officer considered the Applicant's *sur place* claim and reasonably determined there was insufficient evidence to warrant the granting of the Applicant's PRRA application. The Respondent submits that there was no breach of procedural fairness, as the information uncovered through the Officer's extrinsic research "could have reasonably" been "anticipated" by the Applicant (*Vieira Sebastiao Melo v Canada (Citizenship and Immigration)*, 2022 FC 544 at para 30 ("*Vieira Sebastiao Melo*")).

[19] I agree with the Respondent.

[20] The Officer did not disregard the letter from the Applicant's mother. The negative PRRA decision contains clear references to the allegations contained in this document, including that "Pakistani intelligence agencies and police were able to locate the whereabouts of the [A]pplicant's family," "threatened their family," and "badly [beat] the [A]pplicant's brother." I cannot find that this evidence was disregarded or ignored.

[21] I similarly cannot find that the Officer ignored the Applicant's country condition evidence. Although the Officer did not specifically reference the documents cited by the Applicant in his PRRA submissions, the findings from these documents were incorporated into the Officer's analysis. For instance, the Officer recognized that "sectarian violence is a serious problem in Pakistan" and "security services in Pakistan suffer from a number of challenges." The Officer nonetheless found that the Applicant had failed to rebut the presumption of state protection, as "sectarian attacks against Shias...ha[ve] significantly declined since 2013" and "the government has continued to implement its National Action Plan against terrorism." I find that the Officer's findings on this point turned on the weight assigned to the country condition documents on the record. On judicial review, the role of the Court is not to reweigh the evidence before the decision-maker (*Vavilov* at para 125).

[22] On the issue of state protection, the Applicant submits that the Officer failed to consider an alleged fatwa issued against him by the Sipah-e-Sahaba, an anti-Shia extremist group. The Applicant is correct. However, no reviewable error arises from this omission, as the fatwa was

not mentioned by the Applicant in his PRRA submissions. It cannot be a reviewable error for the Officer to have ignored evidence that was not provided by the Applicant.

[23] Neither was it a reviewable error for the Officer to dismiss the Applicant's *sur place* claim. The Applicant submits that the Officer ignored "credible evidence of [his] activities while in Canada that are likely to substantiate...potential harm upon return" (*Ejtehadian v Canada (Citizenship and Immigration)*, 2007 FC 158 at para 11). This argument is meritless. The Officer thoroughly assessed the Applicant's claim that he has been identified as a high-profile activist by Pakistani authorities. Contrary to the Applicant's submissions, the Officer did not dismiss this assertion due to doubts about the Applicant's motives or an absence of good faith (*Ye v Canada (Citizenship and Immigration)*, 2015 FC 21 at paras 15-16). The Officer simply determined that the Applicant failed to establish that his political activities "would become known" to the Pakistani state (*Woldemichael v Canada (Citizenship and Immigration)*, 2020 FC 655 at para 33 ("Woldemichael")). The Officer acknowledged the letter from the Applicant's mother alleging that the police had learned of the Applicant's activities and reasonably determined that this document was vague and uncorroborated. No medical documents, police reports, or statements from the Applicant's brother and father were provided, despite indications that these materials could have been requested and provided to the Officer. The Applicant also submitted no evidence that the newspaper clippings and social media posts about his political activities in Canada would come to the attention of the Pakistani state. I therefore find no reviewable error in the Officer's conclusion that the Applicant brought insufficient evidence to satisfy the test for a *sur place* claim (*Woldemichael* at para 33).

[24] Furthermore, I agree with the Respondent that there was no breach of the Applicant's procedural rights. The Officer was not required to disclose the sources for their further research, as their research simply affirmed information that the Applicant had himself provided in his PRRA submissions. The Officer wrote:

I have conducted further research on this issue, and I find that Shiites have been targets of sectarian violence from right-wing Islamic extremist groups, perhaps most notably the Tehreek-e-Labbaik ("TLP"), who have formed armed, anti-Shi'a groups that have either incited or conducted some attacks against Shi'a Muslims. I therefore accept that the available documentary evidence establishes the continued existence of acts of violence against Shiites in Pakistan.

[Emphasis added]

As held by my colleague Justice Zinn in *Vieira Sebastiao Melo*, "the primary question is whether [the Applicant] could have reasonably anticipated the information contained in the documents" (at para 30). In this case, the Applicant asked the Officer to accept the very information uncovered through their extrinsic research. I therefore do not find that the Officer was obliged to disclose their sources to the Applicant. No procedural defect has been established on this basis.

V. **Conclusion**

[25] For these reasons, this application for judicial review is dismissed. The Officer's decision is justified in light of the constraining facts and law and does not give rise to a breach of procedural fairness (*Vavilov* at para 99).

JUDGMENT in IMM-10991-23

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. There is no question to certify.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-10991-23

STYLE OF CAUSE: HABIB UR REHMAN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: APRIL 8, 2025

JUDGMENT AND REASONS: AHMED J.

DATED: APRIL 28, 2025

APPEARANCES:

Birjinder Mangat	FOR THE APPLICANT
Meenu Ahluwalia	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Mangat Law Office Barrister and Solicitor Calgary, Alberta	FOR THE APPLICANT
Attorney General of Canada Calgary, Alberta	FOR THE RESPONDENT