Federal Court  Cour fédérale

**Date: 20250428**

**Docket: IMM-14205-23**

**Citation: 2025 FC 759**

**Toronto, Ontario, April 28, 2025**

**PRESENT: Justice Andrew D. Little**

**BETWEEN:**

**MUHAMMAD SUHAIB IQBAL**

**and**

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

# JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision by the Refugee Appeal Decision ("RAD") dated October 11, 2023. The RAD upheld the Refugee Protection Division's ("RPD") conclusion that the applicant was not a Convention refugee or person in need of protection under the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the *"IRPA"*) because the applicant had a viable internal flight alternative ("IFA") in Hyderabad, Pakistan.

[2] The applicant submitted that the RAD's decision was unreasonable under the principles in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 563.

[3] For the reasons below, the application must be dismissed, because the RAD's decision did not contain a reviewable error.

[4] The applicant's claim for *IRPA* protection was based on his detention on three occasions by local authorities in Pakistan between March 2013 and July 2014. The applicant advised that he was targeted, detained and abused, both physically and sexually, by local police. The police questioned him about his involvement with terrorists, which he denied. On each occasion, the applicant's family paid a bribe to secure his release.

[5] The RPD and the RAD both concluded that the applicant had a viable IFA in Hyderabad. The RAD held that the applicant had not established that the police in his local area of Pakistan would have the motivation to locate and target him in the IFA location and that it was not unreasonable for him to relocate there.

[6] The applicant submitted that the RAD's decision contained reviewable errors.

[7] The applicant did not allege that the RAD erred in law. It is therefore accepted that the RAD used the correct legal test for the existence of an IFA. As the RAD noted, the Federal Court of Appeal set out the two-prong test for an IFA in *Rasaratnam v Canada (Minister of*

*Employment and Immigration)*, [1992] 1 FC 706 (CA), at pp. 710-711 (paras 8-10). The test required that the RAD be satisfied, on a balance of probabilities, that (1) there is no serious possibility of the applicant being persecuted in the proposed IFA; and (2) in all the circumstances, including circumstances particular to the applicant, conditions in the IFA are such that it would not be unreasonable for him to seek refuge there. The applicant bears the onus to show that the proposed IFA is unreasonable. See also *Thirunavukkarasu v Canada (Minister of Citizenship and Immigration)* (1993), [1994] 1 FC 589 (CA), at pp. 595-599.

[8] Most of the applicant's arguments concerned the RAD's application of the first prong of the IFA test, and its treatment of the evidence.

[9] The RAD concluded that the primary aim of the police who detained the applicant was financial gain. The RAD held that the police did not believe that the applicant was connected to terrorists, in part because he was released three separate times after a few days of detention once a bribe was paid. The RAD's reasoning is found, in material part, in the following passage:

> [23] While I acknowledge the possibility of mixed motivations of the police in detaining the Appellant, I find that the primary motivating factor of the police who detained the Appellant three times was financial gain. I appreciate the authorities may also initially have been legitimately interested in investigating the Appellant for potential ties to terrorists, as the documentary evidence he provided indicates is so prevalent in Pakistan. However, based on the reaction by the police to the Appellant's information regarding [a person known as] AM, their letting him go on three occasions, and the lack of evidence regarding ongoing attempts to locate him, I find that the Appellant has not established that the authorities have sufficient motivation to locate him in the IFA location now that they have investigated and let him go on three separate occasions. As such, while the authorities who detained the Appellant may have had some motivation to investigate the Appellant, it does not appear that the results of

> these investigations obtained information sufficient to motivate them to go outside of their local area to investigate him further.
>
> [Emphasis added.]

[10] The applicant's submissions effectively sought to undermine the RAD's fact-finding and the inferences it drew from the evidence in this passage and others, to reach a conclusion on the means and motivation of the police to pursue the applicant in the IFA location under the first prong of the IFA test.

[11] The applicant submitted that the RAD erred by finding that the authorities would only detain persons perceived to be involved in terrorism for a long time, pointing to a report that indicated that some disappearances of suspected militants lasted only a few hours. I find no reviewable errors. First, as the underlined parts of the passage above show, the RAD based its finding on motivation on several factors, including the existence of the three releases when bribes were paid and a lack of evidence of ongoing attempts to locate the applicant. Second, the RAD's decision recognized, based on the evidence provided by the applicant, that "enforced disappearances of suspected of having ties to terrorists, insurgents, or activists are subject to detention at secret detention centres for days, months or even years of torture. While some are eventually released, most are never seen again". The RAD found that the fact that the applicant had been released three times on payment of a bribe was inconsistent with a genuine perception by the police that he had ties to terrorists. The RAD found that this, in turn, was inconsistent with the country condition evidence concerning the treatment of actual perceived terrorists who face more lengthy detentions if they are among those lucky enough to ever be released.

[12] In oral argument, the applicant submitted that what was important was that there was a pattern of detentions, not necessarily the reasons for these detentions. However, the RAD weighed the country evidence and reached a finding in relation to the applicant's circumstances. The applicant has not shown that the RAD's findings were not open to it on the record. It is not for the Court to re-weigh or reassess the evidence on this application: *Vavilov*, at paras 125-126.

[13] The applicant argued that there was no evidence that the applicant was not perceived by police as a terrorist and that it was speculation that he would no longer be perceived as a militant. The applicant further contended that motivation of the police did not in fact matter, because the RPD had previously found a pattern of police behaviour to extort bribes and that financial objective would remain even today. On this theory, the tenant registration system in Pakistan would enable the authorities in Hyderabad to contact the authorities in the applicant's local home, to advise them of his whereabouts in the IFA. The applicant raised concerns about how other authorities in Pakistan would perceive him.

[14] These submissions do not demonstrate a reviewable error in the RAD's reasoning.

[15] I do not agree with the applicant that the RAD engaged in speculation about police practices or about how the police perceived the applicant. The RAD drew an inference about the motivation of the police (financial gain) based in part on the facts provided by the applicant. It may be noted that the detentions occurred in 2013 and 2014, about a decade before the RAD's decision. Part of the RAD's job was to make findings of fact and inferences drawn from the information provided by the applicant related to the means and motivation of alleged agents of

persecution. The Court cannot second-guess it on an application for judicial review, absent a fundamental misapprehension or misunderstanding of the information in the record. In other words, the applicant's submissions raise arguments that are properly in the purview of the RAD – they go to the merits of the assessment the first prong of the IFA test. The applicant's position invites the Court to reweigh the evidence and come to a different conclusion than the RAD. That is not the Court's role on judicial review: *Vavilov*, at paras 83, 125-126.

[16] The applicant made written submissions on whether the RAD reasonably found that Hyderabad was a reasonable place for the applicant to relocate within Pakistan, arguing in part that the RAD did not perform an independent assessment of the information in the record before it. The applicant mentioned, but sensibly did not press, this position at the hearing. The applicant did not demonstrate a reviewable error on this issue.

[17] For these reasons, the application must be dismissed.

[18] There is no question to certify for appeal.

**JUDGMENT IN IMM-14205-23**

1. The application is dismissed.

2. No question is certified for appeal under paragraph 74(*d*) of the *Immigration and Refugee Protection Act*.

"Andrew D. Little"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-14205-23 |
| **STYLE OF CAUSE:** | MUHAMMAD SUHAIB IQBAL v THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP CANADA |
| **PLACE OF HEARING:** | TORONTO, ONTARIO |
| **DATE OF HEARING:** | APRIL 9, 2025 |
| **REASONS FOR JUDGMENT AND JUDGMENT:** | A.D. LITTLE J. |
| **DATED:** | APRIL 28, 2025 |

**APPEARANCES:**

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| Ferishtah Abdul-Saboor | FOR THE RESPONDENT |

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