

Federal Court



Cour fédérale

Date: 20250416

Docket: IMM-12319-23

Citation: 2025 FC 700

Toronto, Ontario, April 16, 2025

PRESENT: Mr. Justice Norris

BETWEEN:

SHUBHAM BHARGAV

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 30-year-old citizen of India. In October 2017, he made a claim for refugee protection in Canada on the basis of his fear of persecution and other harms at the hands of two groups – the Punjab and Haryana police, because of his association with his cousin Rajiv, who is a fugitive wanted by the police; and the Sikander Organization (a student group), because of his association with his friend Raju, who is wanted for murdering the leader of the group in a fight in February 2017. The applicant claims to have been detained and tortured by the police

twice: first in October 2016, because of his association with Rajiv, and again in February 2017, because of his association with Raju.

[2] In May 2021, the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (IRB) rejected the applicant's claim on credibility grounds. In August 2022, the Refugee Appeal Division (RAD) of the IRB allowed the applicant's appeal and returned the matter to the RPD for redetermination. On May 10, 2023, the RPD rejected the claim again but this time on the basis that the applicant has a viable Internal Flight Alternative (IFA) at two locations in India. On September 14, 2023, the RAD dismissed the applicant's appeal, finding that the RPD correctly concluded that the applicant is neither a Convention Refugee nor a person in need of protection because he has a viable IFA. The applicant now seeks judicial review of the RAD's decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*).

[3] The parties agree, as do I, that the RAD's decision should be reviewed on a reasonableness standard. 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" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision that displays these qualities is entitled to deference from the reviewing court (*ibid.*). To establish that the decision should be set aside because it is unreasonable, the applicant must demonstrate that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

[4] I am not persuaded that there is any basis to interfere with the RAD's decision.

[5] The determinative issue for the RAD (and for the RPD) was the availability of a viable IFA. Briefly, an IFA is a place in their country of nationality where a party seeking protection would not be at risk (in the relevant sense and on the applicable standard, depending on whether the claim is made under section 96 or 97 of the *IRPA*) and to which it would not be unreasonable for them to relocate. When there is a viable IFA, a claimant is not entitled to protection from another country. To counter the proposition that they have a viable IFA, a party seeking protection has the burden of showing either that they would be at risk in the proposed IFA (in the relevant sense and on the applicable standard) or, even if they would not be at risk in the proposed IFA, that it would be unreasonable in all the circumstances for them to relocate there. For the IFA test generally, see *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA), [1992] 1 FC 706; *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589 (CA); and *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA), [2001] 2 FC 164 (CA).

[6] The applicant submits that the RAD's determination under the first branch of the test that there is no reasonable possibility of persecution in the IFA locations is unreasonable; in my view, his submissions do not amount to anything more than disagreements with the RAD's finding. The RAD addresses the arguments raised on appeal in this regard with transparent and intelligible reasons. The applicant has not pointed to any material evidence the RAD overlooked, nor has he identified any fatal flaws in the RAD's reasoning. The conclusions that the agents of

persecution would not be motivated to seek out the applicant in the proposed IFA locations and, even if they were, they would lack the means to find him there were reasonably open to the RAD on the evidence before it. Given the finding of a lack of motivation, there was no need for the RAD to consider in greater detail whether the applicant could be located through his family.

[7] Likewise, in his written submissions the applicant takes issue with the RAD's finding that the second branch of the IFA test was also satisfied but he has not identified any respect in which it is unreasonable.

[8] The applicant raises two additional issues in his written submissions. One is that the RAD misidentifies the Delhi police as an agent of persecution. I am satisfied that this is a typographical error and does not reflect a misapprehension of the evidence. It is only fair to point out that the applicant appears to have made the same mistake himself when describing an October 2016 police raid on his home in his Basis of Claim narrative.

[9] The other issue is that the RAD unreasonably rejected a ground of appeal alleging that the applicant did not have sufficient notice that IFA would be in issue before the RPD. In rejecting this ground of appeal, the RAD reviewed the procedural history of the claim in detail. The RAD also noted that the applicant had been represented by counsel throughout the process. The RAD found that there were several junctures when the applicant had been put on notice that IFA would be in issue. The RAD's conclusion that there was no merit to this ground of appeal is altogether reasonable.

[10] For these reasons, this application for judicial review will be dismissed.

[11] Neither party proposed a serious question of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-12319-23

THIS COURT’S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

“John Norris”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-12319-23

STYLE OF CAUSE: SHUBHAM BHARGAV v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: APRIL 16, 2025

JUDGMENT AND REASONS: NORRIS J.

DATED: APRIL 16, 2025

APPEARANCES:

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Idorenyin Udoh-Orok	FOR THE RESPONDENT

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