

Federal Court



Cour fédérale

Date: 20250529

Docket: IMM-6822-24

Citation: 2025 FC 975

Toronto, Ontario, May 29, 2025

PRESENT: The Honourable Madam Justice Ferron

BETWEEN:

**MANPREET SINGH
ISHLEEN KAUR
PARDEEP KAUR**

Applicants

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants seek judicial review of a decision by the Refugee Appeal Division [RAD] dated March 27, 2024 [Decision], whereby the RAD refused the Applicants' appeal of the decision of the Refugee Protection Division [RPD] that itself had refused their claim for refugee protection. The RAD confirmed that the RPD had correctly found that the Applicants are neither Convention refugees nor persons in need of protection, pursuant to sections 96 and 97 of the *Immigration and*

Refugee Protection Act, SC 2001, c 27 [IRPA]. Both the RPD and the RAD found that the determinative issue was that the Applicants have an internal flight alternative [IFA].

[2] In brief, the Applicants argue that the RAD breached its duty of procedural fairness when it failed to provide them notice of the updated National Documentation Package [NDP], dated November 30, 2023 [November 2023 NDP]. The Applicants also argue that the November 2023 NDP evidence was sufficiently different, novel and significant, and that it could have impacted the RAD Decision, had the Applicants been able to address it properly.

[3] The Minister of Citizenship and Immigration [Minister], the Respondent, essentially submits that there was no breach of procedural fairness because the updated documents in the November 2023 NDP were not sufficiently different, novel or significant that it would change the Decision. Thus, there was no requirement for the RAD to issue notice to the Applicants.

[4] For the reasons that follow, the application for judicial review will be dismissed.

II. Brief Summary of the Facts

[5] Manpreet Singh [Principal Applicant], his wife Pardeep Kaur [Associate Applicant], and their minor daughter Ishleen Kaur [collectively, the Applicants], are citizens of India from the Punjab state. They allege a fear of harm from the Associate Applicant's uncle, Mohinder Singh [Mohinder], who had the Principal Applicant arrested on false accusations of support for pro-Khalistan militancy using his position as a police inspector because he did not approve of their marriage and was angered by the Principal Applicant's refusal to support the Congress Party.

[6] The claim was heard by the RPD on December 16, 2021. While the RPD accepted that the Applicants were credible with respect to the alleged risks of harm from Mohinder and his accomplices, it nonetheless refused their refugee claim on December 23, 2021, finding that the Applicants had a viable IFA in the cities of Mumbai and Hyderabad.

[7] The Applicants appealed the RPD decision to the RAD on January 31, 2022. They argued that the RPD ignored the evidence that the Indian police is the main agent of persecution, and that the Applicants cannot live in the IFA.

[8] On January 9, 2024, the RAD wrote a letter to the Applicants that advised them that their legal counsel was prohibited from appearing before the Immigration and Refugee Board [IRB] and that they could retain new counsel by February 19, 2024. It also advised that the Applicants could add more information to their appeal record if they wanted, though it was not necessary.

[9] The RAD heard the appeal on March 27, 2024, and issued its Decision on March 28, 2024. The RAD performed its own assessment of the evidence and found that the RPD was correct in finding that the Applicants had a viable IFA in Mumbai or Hyderabad.

III. Submissions to this Court

A. *The Applicants' Submissions*

[10] The Applicants' submit that the RAD failed to follow the law as prescribed by *Lin v Canada (Citizenship and Immigration)*, 2021 FC 380 [*Lin*], regarding the RAD's obligation to

advise the Applicants that it would be relying on the November 2023 NDP for India and that, as a result, there was a breach of procedural fairness.

[11] Furthermore, the Applicants submit that the RAD's determination that there was "no change in the general country conditions that would require it to issue notice to the [Applicants] in the matter envisaged by Lin" was incorrect and flawed. The Applicants submit that the November 2023 NDP, published after the Applicants had perfected their appeal to the RAD, conveys that the demographic of the suggested IFA locations had even more negligible Sikh communities than the previous version. The Applicants add that one of the documents included in the November 2023 NDP (Tab 1.15) was not really an update of the former version (Tab 1.9) but a new document, since the previous corresponding document was removed and the information is indicated as being added, not updated. They stress that Tab 1.15 is marked with a new identification number, further demonstrating that it is a new document.

[12] Moreover, the Applicants submit that the proposed IFAs are not reasonable because "the integration of Sikhs in areas without a Sikh community is challenging, and that they are likely to experience 'discriminatory treatment from law enforcement' officials and authorities 'for wearing the kirpan'" (citing the November 2023 NDP, Tab 12.8). Therefore, the November 2023 NDP was sufficiently different, novel and significant, whereby the RAD had a resulting duty to provide the Applicants with notice of the updated NDP.

[13] Lastly, the Applicants stress that the RAD's decision to not provide notice because it had sent the Applicants a letter on January 9, 2024, providing them with an opportunity to retain new counsel and add information to the record, is insufficient and in violation of procedural fairness.

The RAD was in breach of its duty “to establish fair and efficient procedures that will maintain the integrity of the Canadian refugee protection system, while upholding Canada’s respect for the human rights and fundamental freedoms of all human beings” (s 3(e) of the *IRPA*).

B. *The Minister’s Submissions*

[14] The Minister submits that the RAD turned its mind to *Lin*, specifically to the duty of providing notice to an applicant if the information in the NDP arose “after an applicant has perfected their appeal and made their submissions and that information is different and shows a change in the general country conditions” (*Lin* at para 26) [emphasis added by the Minister], and that the RAD properly considered whether it was required to notify the Applicants that it would be relying on the November 2023 NDP.

[15] At the time of the Decision, the latest NDP for India was the November 2023 NDP. The Applicants’ former counsel was prohibited from appearing before the IRB in December 2023. The RAD wrote the Applicants a letter dated January 9, 2024, to provide the opportunity to obtain new counsel or represent themselves and add information to the record. The Applicants did not reply to the RAD that they retained new counsel and did not provide any further submissions, which could have included submissions on the November 2023 NDP.

[16] The Minister adds that Applicants are deemed to be aware of publicly available documents describing general country conditions, such as the November 2023 NDP (*Lin* at para 26; *Zerihaymanot v Canada (Citizenship and Immigration)*, 2022 FC 610 at para 48 [*Zerihaymanot*]; *Telet v Canada (Citizenship and Immigration)*, 2025 FC 186 at para 51).

[17] According to the Minister, the Applicants failed to demonstrate that the RAD breached procedural fairness in failing to notify them that it would be relying on the November 2023 NDP and that the updated documents in the November 2023 NDP were “sufficiently different, novel and significant” (*Thind v Canada (Citizenship and Immigration)*, 2022 FC 1782 at para 23 [*Thind*]). The RAD’s key finding was that there was no substantive difference between the two NDP packages which would trigger a notice requirement.

[18] The Minister adds that demographic information of the IFAs, claimed by the Applicants to be newly added, is not new information. The small size of the Sikh communities does not constitute a significant change in country conditions, and the Applicants cannot reasonably claim that numbers drawn from a 2011 census of the population constitute new evidence of significant changes in country conditions since they filed their appeal to the RAD.

[19] Notably, the Applicants’ written submissions to the RAD demonstrate that they were aware of the 2011 census results and the small size of the Sikh population in the proposed IFAs. They raised this argument at paragraphs 23-26 of their appeal submissions and cited documentary evidence from Tab 1.9 of the NDP dated June 30, 2021 [June 2021 NDP]. As evidenced by the titles of the documents, Tab 1.15 of the November 2023 NDP is an updated version of Tab 1.9 of June 2021 NDP. Both documents refer to India’s 2011 census statistics for the IFA’s religious composition. The Applicants have not demonstrated that the information at Tab 1.15 of the November 2023 NDP is “sufficiently different, novel and significant and could change the decision” (*Kamara v Canada (Citizenship and Immigration)*, 2024 FC 13 at para 33 [*Kamara*]).

[20] In response to the Applicants' argument that the new documentary evidence at Tab 12.8 of the November 2023 NDP supports their allegation that they will face discriminatory treatment, such that the IFAs are unreasonable, the Minister submits this information does not constitute a change in country conditions after the Applicants filed their appeal record, because they raised this same argument at paragraphs 25 to 33 of their submissions to the RAD.

[21] The RAD conducted an independent assessment of the evidence and rejected the Applicants' submissions regarding difficulties they would face as minority Sikhs in the IFAs. While there may be some rare cases of religious discrimination, the evidence is that Sikhs generally do not face systemic problems in India based on their identity. Further, the RAD noted there are recourses available to the Applicants to file a complaint of discrimination.

[22] Accordingly, the Minister argues that the RAD was under no obligation to notify the Applicants because "the updated information is not sufficiently different, novel and significant, or, in other words, where there are no material differences or changes in substance, then there is simply no breach of procedural fairness" (citing *Thind* at para 22; *Singh v Canada (Citizenship and Immigration)*, 2024 FC 1097 at paras 16-18 [*Singh 1097*]; *Kamara* at paras 31-33; *Singh v Canada (Citizenship and Immigration)*, 2024 FC 1692 at para 8; *Singh v Canada (Citizenship and Immigration)*, 2025 FC 437 at para 11).

IV. Analysis

A. *Standard of Review*

[23] At the hearing, both parties stressed that the sole issue at play in this judicial review was whether or not the RAD's conclusion that it did not have an obligation to provide notice that it would be reviewing the November 2023 NDP was a breach of procedural fairness.

[24] With respect to procedural fairness, although no standard of review is applied, the Court's exercise of review is "best reflected in the correctness standard" (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*Canadian Pacific Railway*]; see also *Canadian Hardwood Plywood and Veneer Association v Canada (Attorney General)*, 2023 FCA 74 at para 57). The Court must ask whether the process was fair in view of all the circumstances: "the ultimate question remains whether the applicant knew the case to meet and had a full and fair chance to respond." (*Canadian Pacific Railway* at paras 54, 56)

B. *The Relevant Passages of the Decision Under Review*

[25] The relevant portions of the Decision are reproduced below:

Preliminary Issue: No need to give notice of current National Documentation Package (NDP)

[8] The Appellants' former Counsel was prohibited from appearing before the Immigration and Refugee Board (IRB) as of December 12, 2023. The RAD wrote to the Appellants in a letter dated January 9, 2024, to provide them with an opportunity to obtain new Counsel, or to represent themselves and add information to the Appellants' Record. The Appellants were given until February 19, 2024, to

obtain new Counsel or provide further submissions. The Appellants have not provided any indication that they have retained new counsel and have not provided any further submissions. As such, I will rely on the Appellant's Record that was filed on May 9, 2022.

[9] I also note that since the Appellant submitted the Appellant's Record, the National Documentation Package (NDP) for India has been updated. The latest NDP was issued on November 30, 2023. I have considered whether I should give notice to the Appellant that I will be relying upon the updated NDP in my conduct of this appeal; I find notice is not required here.

[10] I have reviewed the relevant pieces of the older and newer versions of the NDP for India that the RPD and the Appellant's former Counsel relied on, as well as the other pieces that I consider may be relevant to the claim, I see no change in the general country conditions that would require me to issue notice to the Appellant in the manner envisaged by Lin. For these reasons, I find I do not need to issue a further notice to the Appellant, over and above the letter of January 9, 2024, to address the updated NDP for India.

...

[37] In my view, the evidence shows, despite the Appellants' claims that he would be targeted by Hindu nationalists in the IFA location, that the evidence is insufficient to suggest conditions in the proposed IFA location for Sikhs as religious minority in India are so severe that they make relocation to the IFA cities unreasonable in the Appellant's circumstances.

C. *There was no breach of procedural fairness*

[26] This Court agrees with the Minister that it is clear from the relevant passages of the Decision shown above that the RAD turned its mind to *Lin* and considered whether it was required to notify the Applicants that it would be relying on the November 2023 NDP for India. The RAD reasonably and fairly arrived at the conclusion that it was not required to do so.

[27] What the Court stated in *Lin* is that "the RAD only has a duty to disclose an updated NDP if the information in the NDP arose 'after an applicant has perfected their appeal and made their

submissions and that information is different and shows a change in the general country conditions” (at para 26 citing *Zhang v Canada (Citizenship and Immigration)*, 2015 FC 1031 at para 54) [emphasis added].

[28] Moreover, the jurisprudence has evolved such that it is the Applicants’ burden of demonstrating that the new information in the updated NDP is “sufficiently different, novel and significant” to oblige the RAD from disclosing it would be relying on it (*Thind* at para 23). The Applicants did not meet this burden.

[29] It is established that although the RAD should consider the most recent NDP in assessing risks even if a new version only becomes available after the parties’ submissions, it may be reasonable for the RAD to rely on older versions of the NDP unless there is “different, novel and significant” information in the new NDP that was unavailable when the applicants made their submissions. Again, a claimant that alleges the RAD failed to consider new documentary evidence has the burden to show that the new information is “sufficiently different, novel and significant and could change the decision” (*Singh 1097* at paras 16-18; *Singh v Canada (Citizenship and Immigration)*, 2024 FC 1290 at para 16 [*Singh 1290*]).

[30] This Court agrees with the Minister that there was no breach of procedural fairness because the RAD conducted an independent assessment of the new documentation at Tabs 1.15 and 12.8 of the November 2023 NDP and reasonably concluded that it did not constitute a change in country conditions. In my view, the Applicants have not demonstrated that the information in the November 2023 NDP is “sufficiently different, novel and significant” or that it could change the

Decision, and consequently, have not demonstrated that the RAD acted unfairly by not providing a notice.

[31] The record demonstrates that the 2011 census data has been used in the NDP for India for several years and were relied upon by the Applicants in their submissions to the RAD. Specifically, the Applicants relied on the 2011 census data from Mumbai and Hyderabad, which indicates that 0.49% and 0.25% of the population follows Sikhism. The Applicants' footnote indicates that this information came from the June 2021 NDP; therefore, it is not new evidence. Further, Tab 1.15 of the November 2023 NDP also relied on the 2011 census data of India and its capital cities, including in its sections on Hyderabad and Mumbai. While the November 2023 NDP may show minor changes in the final percentages of the population that follows Sikhism, it does not change the underlying submissions already made by the Applicants and already considered and rejected by the RAD.

[32] Further, this Court agrees with the Minister that Tab 1.15 of the November 2023 NDP appears to be an update to Tab 1.9 of the June 2021 NDP. This is evidenced by the documents' title descriptions. Once again, it is not unreasonable for the RAD to have found that this updated evidence was not sufficiently different, novel or significant to warrant providing notice to the Applicants.

[33] It should be pointed out that this Court has previously rejected the Applicants' counsel's argument regarding the updated NDP package, so this Court's decision in the present matter should not come as a surprise (*Singh 1290* at para 16 citing *Singh 1097* at paras 16-18;). With all due

respect, counsel for the Applicants does not seem to comprehend what “sufficiently different, novel and significant” means.

D. *Conclusion*

[34] In short, this Court concludes that the Decision is procedurally fair. The Applicants have not pointed to updated documentary evidence in the November 2023 NDP that was different, novel or significant enough to impact the Decision. Therefore, the application for judicial review is dismissed.

JUDGMENT in IMM-6822-24

THIS COURT’S JUDGMENT is that:

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

“Danielle Ferron”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-6822-24

STYLE OF CAUSE: MANPREET SINGH, ISHLEEN KAUR, PARDEEP
KAUR v MINISTER OF CITIZENSHIP AND
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PLACE OF HEARING: MONTRÉAL, QUEBEC

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**REASONS FOR JUDGMENT
AND JUDGMENT:** FERRON J.

DATED: MAY 29, 2025

APPEARANCES:

Jonathan Gruszczynski

FOR THE APPLICANTS
ISHLEEN KAUR
MANPREET SINGH
PARDEEP KAUR

Suzanne Trudel

FOR THE RESPONDENT
MINISTER OF CITIZENSHIP AND IMMIGRATION

SOLICITORS OF RECORD:

Jonathan Gruszczynski

FOR THE APPLICANTS
ISHLEEN KAUR
MANPREET SINGH
MINISTER OF CITIZENSHIP AND IMMIGRATION
PARDEEP KAUR

Barrister and Solicitor
Montréal, Quebec

Suzanne Trudel

FOR THE RESPONDENT
MINISTER OF CITIZENSHIP AND IMMIGRATION

Department of Justice
Montréal, Quebec