Federal Court Cour fédérale

Date: 20250603

Docket: IMM-5272-24

Citation: 2025 FC 996

Ottawa, Ontario, June 3, 2025

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

PRAGNA TAPAS CHAKMA

Applicant

and

THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP

Respondent

JUDGMENT AND REASONS

[1] The Applicant claimed refugee status in Canada, alleging a fear of persecution in Bangladesh due to his ethnicity and nationality as an indigenous Chakma, his Buddhist faith, and his political activism. The Refugee Protection Division [RPD] dismissed his claim because he did not establish his identity, and the Refugee Appeal Division [RAD] confirmed this finding on appeal. On judicial review, the Applicant alleges that the RAD's decision is unreasonable

because it set aside his evidence or was otherwise unconvinced by it. I disagree. For the following reasons, this application is dismissed.

[2] The sole issue is whether the decision under review is reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 7, 39–44 [*Mason*]). To avoid judicial intervention, the decision must bear the hallmarks of reasonableness—justification, transparency, and intelligibility (*Vavilov* at para 99; *Mason* at para 59). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125–126; *Mason* at para 73). Reasonableness review is not a "rubber-stamping" exercise, it is a robust form of review (*Vavilov* at para 13; *Mason* at para 63). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

[3] Absent exceptional circumstances, the Court's role on judicial review does not involve "reweighing and reassessing the evidence considered by the decision maker" (*Vavilov* at para 125, citing *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55). The RAD is tasked with carrying out its own analysis of the record, either confirming the RPD decision or setting it aside and substituting its own determination of the merits of the refugee claim (*Huruglica v Canada (Citizenship and Immigration)*, 2016 FCA 93 at para 103).

[4] Refugee applicants are presumed to tell the truth, but that presumption is challengeable, and a lack of credibility may suffice to refute it (*Lawani v Canada (Citizenship and*

Immigration), 2018 FC 924 at para 21). The presumption is notably rebuttable where the evidence is inconsistent with the applicant's sworn testimony (*Su v Canada (Citizenship and Immigration)*, 2015 FC 666 at para 11, citing *Adu v Canada (Minister of Employment and Immigration)*, [1995] FCJ No 114 (QL) (FCA)), or where the decision maker is unsatisfied with the applicant's explanation for those inconsistencies (*Lin v Canada (Citizenship and Immigration)*, 2010 FC 183 at para 19).

[5] The Applicant argues that the decision under review provides "no valid reasons" for setting his evidence aside, and that the RAD "does not appear to have [given] any weight" to the evidence he submitted in support of his claim (Applicant's Memorandum at paras 3, 4, 9, 23). In so doing, he is essentially asking this Court to interfere with the RAD's factual findings. I see no reason to do so.

[6] The RAD concluded that the Applicant was not sufficiently credible to establish his identity and that some of his documents were fraudulent, rebutting the presumptions of veracity associated with each component of his evidence (see *Maldonado v Canada (Minister of Employment and Immigration)*, [1980] 2 FC 302, 1979 CanLII 4098 (FCA) at para 5; *Ramalingam v. Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 7241 (FC) at para 5).

[7] A central issue was the Applicant's failure to provide a Bangladeshi passport to establish his identity, since he entered Canada on an Indian passport, and never obtained a Bangladeshi travel document out of an alleged fear of being located (RAD Reasons at para 13). However, he

later testified that his father went to several offices and arranged to secure documents in Bangladesh to prove his identity (RAD Reasons at para 14). Both the RAD and RPD found this to be a serious contradiction with respect to the Applicant's alleged fear of the Bangladeshi government, and I see no reason to interfere with that finding.

[8] The RAD noted further problems with the Applicant's evidence. It found issues with his birth certificate, observed a discrepancy between his testimony and his marriage certificate, several discrepancies within the testimony itself, deemed his license and identity card to be counterfeit, and pointed to documentary evidence on the prevalence of fraudulent identity documents in Bangladesh (RAD Reasons at paras 19–32).

[9] The prevalence of inauthentic documents in Bangladesh does not relieve the RPD and RAD of the duty to determine whether the Applicant's particular documents are genuine (*Chen v Canada (Citizenship and Immigration)*, 2015 FC 1133 at para 10), but this duty was not eschewed in this case. The inauthenticity findings did not rely solely on documentary evidence, but on the inconsistencies within the documents themselves: the Minister found no matching birth records with his birth certificate (RAD Reasons at paras 19–21); the location on his marriage certificate did not match his testimony (RAD Reasons at paras 22–24); the national identity card used commercial inks (RAD Reasons at paras 25–28). Simply put, the RAD made intelligible, transparent, and justified findings of fact in light of the evidence and submissions presented to it (*Vavilov* at paras 105, 125–128). These findings were not unreasonable based on the evidentiary record before the RAD. The Applicant's argument that the RAD provided "no valid reasons" for setting his evidence aside is without merit.

[10] Moreover, contradictory statements can be considered in the overall assessment of a claimant's credibility (*Sun v Canada (Citizenship and Immigration)*, 2020 FC 477 at para 38, citing *Canada (Minister of Employment and Immigration) v Dan-Ash*, 1988 CanLII 10307 (FCA), [1988] FCJ No 571 (QL), 93 NR 33 (CA)). The role of this Court does not involve conducting such a re-assessment of the evidence, nor does it involve reweighing the evidence presented before the RAD, absent exceptional circumstances (see, generally, *Safe Food Matters Inc v Canada (Attorney General)*, 2022 FCA 19 at paras 37–39, and the authorities cited therein).

[11] In this case, the RAD was plainly entitled to make the findings of fact it made and draw a negative credibility inference from them. The Applicant disagrees with these findings but has not shown why they are unreasonable. Accordingly, I cannot intervene.

[12] I pause to observe a small evidentiary issue in this case. Before the RAD, the Applicant claimed that he filed new and relevant evidence that would have favoured his case, although there is no proof that such evidence was indeed submitted (RAD Reasons at paras 7–9). He repeated this claim before the Court on judicial review, insisting that the evidence was in fact put before the RAD. However, in a letter post-dating the Federal Court hearing, the Applicant now acknowledges that he was mistaken, and that the evidence was not available to the RAD. In this same letter, he nevertheless urges the Court to take this new evidence into account.

[13] Parliament has entrusted the RAD with the assessment and evaluation of the evidence on the merits of refugee claims, and I would be remiss "to overlook the loss of the benefit of the tribunal's views inherent in allowing the issue to be raised" (*Alberta (Information and Privacy*

Commissioner) v Alberta Teachers' Association, 2011 SCC 61 at para 25). No exception to the general rule against admitting new evidence on judicial review applies here (*Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 13–28).

[14] Nevertheless, even if I had accepted to introduce the new evidence in the record, that evidence is not sufficiently persuasive and does not rebut the factual findings of the RAD relating to the contradictions noted above. Identity is an essential component of any refugee claim, and the failure to prove it is fatal (*Edobor v Canada (Citizenship and Immigration)*, 2019 FC 1064 at para 8). The new evidence adduced consists in unsworn statements from individuals who are currently in Canada. The evidence demonstrates that some individuals met the Applicant in Bangladesh in 2014, while others simply state knowing the Applicant and him being Bangladeshi by birth and a genuine citizen, without providing any additional information or particulars to establish that fact. That unsworn evidence does not constitute reliable and persuasive evidence that is sufficient to rebut the factual findings of the RAD.

[15] For the reasons set out above, this application for judicial review is dismissed. There is no question of general importance to certify.

JUDGMENT in IMM-5272-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question of general importance for certification.

"Guy Régimbald"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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