

Federal Court



Cour fédérale

Date: 20250613

Docket: IMM-4380-24

Citation: 2025 FC 1068

Ottawa, Ontario, June 13, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

MD TANVIR AHMEED FAHIM

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Md Tanvir Ahmeed Fahim (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Appeal Division (the “RAD”), dismissing his appeal from a decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”). The determinative issue in each decision was the availability of an Internal Flight Alternative (“IFA”).

[2] The Applicant is a citizen of Bangladesh. He sought protection in Canada on the basis of fear of persecution from a family member, in connection with a dispute over land.

[3] The Applicant argued before the RPD that after leaving his home community of Taranaghar, Dhaka, the agents of persecution pursued him in other parts of the country.

[4] The RPD found that an IFA is available to the Applicant in Rajshahi, Khulna, or Jashore. The RAD confirmed that finding.

[5] The family member is associated with the Awami League, the dominant political party in Bangladesh. The RAD found that the family member did not enjoy the influence to persuade the Awami League to pursue the Applicant throughout the country.

[6] The RAD also found that the risk from the family member and his “goons” was localized such that an IFA was reasonably available.

[7] The Applicant now argues that the RAD erred in its application of the objective element of the test for finding an IFA.

[8] The Applicant argues that the RAD improperly applied the wrong standard of proof in its IFA analysis. According to him, the RAD applied the standard of a balance of probabilities rather than the standard of a “mere possibility” of persecution in the proposed IFAs. He relies on

the decision in *Adjei v. Canada (Minister of Employment and Immigration)*, [1989] 2 F.C. 680 (F.C.A.).

[9] As well, the Applicant argues that the RPD ignored the evidence when making its conclusion about the first part of the IFA test, that is about the ability of the agents of persecution to find him in the proposed IFAs.

[10] For his part, the Respondent submits that the RAD made no reviewable error and that the Applicant asks for the Court to reweigh the evidence, which is not permissible on “judicial review”.

[11] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the decision is reviewable on the standard of reasonableness.

[12] In considering reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision”; see *Vavilov*, *supra*, at paragraph 99.

[13] The test for an IFA was addressed by the Federal Court of Appeal in *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 at 710-711 (F.C.A.). The test is two-part and provides as follows:

First, the Board must be satisfied that there is no serious possibility of a claimant being persecuted in the IFA.

Second, it must be objectively reasonable to expect a claimant to seek safety in a different part of the country before seeking protection in Canada.

[14] It is not necessary to delve into the Applicant's arguments about application by the RAD of the wrong burden of proof.

[15] Upon consideration of ETC, I am satisfied that the RAD's treatment of the IFA test is not reasonable.

[16] Considering that the RAD made no negative credibility findings, the RAD's determination on the first prong of the test, that is the "objective" prong, does not meet the test of "justification, transparency, and intelligibility".

[17] The application for judicial review will be allowed, the decision will be set aside and the matter will be remitted to a differently constituted panel of the RAD for redetermination. There is no question for certification.

JUDGMENT IN IMM-4380-24

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Refugee Appeal Division is set aside and the matter is remitted to a differently constituted panel of the Refugee Appeal Division for redetermination. There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4380-24

STYLE OF CAUSE: MD TANVIR AHMEED FAHIM v. MCI

PLACE OF HEARING: TORONTO, ON

DATE OF HEARING: FEBRUARY 25, 2025

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JUNE 13, 2025

APPEARANCES:

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