

Federal Court



Cour fédérale

**Date: 20251024**

**Docket: IMM-6977-24**

**Citation: 2025 FC 1727**

**Ottawa, Ontario, October 24, 2025**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**SHAHZADA SAFDAR**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Shahzada Safdar, applied for permanent residence based on humanitarian and compassionate grounds (“H & C Application”). An officer at Immigration, Refugees and Citizenship Canada refused her application. Ms. Safdar is challenging this refusal on judicial review.

[2] At the time of the Officer's decision, Ms. Safdar was 75 years old and had lived in Canada continuously with her family for approximately six years. Ms. Safdar requested humanitarian relief primarily on the following grounds: her hardship in returning to Pakistan, her separation from family in Canada and the best interests of her eight minor grandchildren in Canada.

[3] Ms. Safdar raises a number of arguments challenging the Officer's decision. The parties agree, as do I, that I ought to review the Officer's decision on a reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23).

[4] I agree with Ms. Safdar that the Officer's decision is unreasonable. In my view, the following two issues are determinative of the application: i) the minimization of, and lack of attention to, the best interests of the children; and ii) the failure to evaluate Ms. Safdar's hardship in returning to Pakistan in light of the relevant factual and legal constraints. Accordingly, I grant the judicial review.

## II. Background and Procedural History

[5] Ms. Safdar is an elderly widow. She is a citizen of Pakistan. Two of her adult children live in Canada as do her eight grandchildren. She also has adult children who live in the United States, United Kingdom, and Pakistan. Ms. Safdar is unable to reside with her only daughter in Pakistan and lived alone there after her husband died, and her other children fled the country.

[6] Ms. Safdar entered Canada in 2018 and made a claim for refugee protection. Ms. Safdar's claim for refugee protection was denied in 2019 and her appeal of that decision was denied in March 2020. Ms. Safdar also challenged the appeal refusal in this Court and leave was denied in February 2021.

[7] In 2022, Ms. Safdar submitted the H & C Application that is the subject of this judicial review. Ms. Safdar also filed an application for Pre-Removal Risk Assessment ("PRRA") in 2022.

[8] While Ms. Safdar has been in Canada, she has lived with her son and his family, including four of her grandchildren, and also has regularly stayed with her daughter and her other four grandchildren. Ms. Safdar's H & C Application was based on the following factors: the discrimination she would face in Pakistan as an elderly, single, Shia woman; the challenge of meeting her medical needs living alone in Pakistan; the separation from her family in Canada; her establishment in Canada and the best interests of her eight grandchildren in Canada.

[9] In February 2024, the Officer refused the H & C Application. The Officer found that the grandchildren's best interests would not be negatively affected by their grandmother's removal, that Ms. Safdar did not have an impediment to going back to where she had been living in Pakistan, that she was similarly situated as others like her in Pakistan and that she had not shown how the general country documents applied to her situation. The Officer also found that she did not have significant establishment in Canada.

[10] The same officer who refused the H & C Application also refused the PRRA. That refusal was also challenged in this Court and following a settlement, has been sent back to be redetermined by a different officer.

### III. Analysis

[11] The goal of humanitarian and compassionate discretion under section 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] is “to offer equitable relief in circumstances that ‘would excite in a reasonable [person] in a civilized community a desire to relieve the misfortunes of another’” (*Kanhasamy v Canada (Minister of Citizenship and Immigration)*, 2015 SCC 61 [*Kanhasamy*] at para 21, citing *Chirwa v Canada (Minister of Citizenship and Immigration)* (1970), 4 IAC 338).

[12] Given that the purpose of humanitarian and compassionate discretion is to “mitigate the rigidity of the law in an appropriate case”, there is no limited set of factors that may warrant relief (*Kanhasamy* at para 19). The factors warranting relief will vary depending on the circumstances, but “officers making humanitarian and compassionate determinations must substantively consider and weigh all the relevant facts and factors before them” (*Kanhasamy* at para 25; *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 [*Baker*] at paras 74-75).

[13] In my view, the Officer failed to “substantively consider and weigh” the facts and factors relating to two issues: i) the best interests of the children affected by the decision; and ii) Ms. Safdar’s hardship in returning to Pakistan.

A. *Best Interests of the Children*

[14] The Supreme Court of Canada in *Kanthasamy* considered the best interests of the child requirement in subsection 25(1) of IRPA, finding: “Where, as here, the legislation specifically directs that the best interests of the child who is ‘directly affected’ be considered, those interests are a **singularly significant focus and perspective**” (*Kanthasamy* at para 40, emphasis added).

[15] Ms. Safdar requested humanitarian relief based on the best interests of her eight grandchildren in Canada. Ms. Safdar’s evidence and that of her children confirmed that she is one of her grandchildren’s caregivers – that she cooks, tells folk stories and is a daily presence in the lives of at least four of the grandchildren and a very regular presence in the lives of the other four grandchildren with whom she lives with approximately one week in the month. The youngest grandchild, with whom Ms. Safdar consistently lives, insists on sleeping in her grandmother’s bed at night.

[16] The Officer’s limited analysis does not explain what is in the children’s best interests but instead limits the inquiry to whether the children’s interests would be “negatively affected” or whether the children would be “unable to adjust” to their grandmother’s deportation. On this more limiting question, there is minimal engagement with the evidence.

[17] The Officer makes blanket statements that the children are not “financially or otherwise dependent on the applicant”, that they could “maintain contact and communication through various means” and that Ms. Safdar has the option of applying for a visa to visit the children.

Despite not making any negative findings about Ms. Safdar's caregiving or any negative inference about the evidence relating to the extent of her caregiving and presence in her grandchildren's lives, the Officer concludes that their best interests would not be "negatively affected" by their grandmother, who has been a daily presence in the foundational years of their development for the last six years, having to leave Canada. Without more explanation, the outcome the Officer reached – i.e. no negative impact – is incongruent with the evidence. The Officer's limited analysis does not accord with the "'serious weight and consideration' ... [the] Court in *Baker* identified as essential to a proper appreciation of a child's best interests: para 65" (*Kanthasamy* at para 57).

[18] Within the best interests of the child analysis, the Officer also compares this family's circumstances with other "Canadian families with varying challenges" in relation to caregiving arrangements and finds it does not differ from other families. This sort of comparison is irrelevant to the question before the Officer – which is centred on determining the children's best interests.

[19] The Supreme Court of Canada in *Kanthasamy* re-affirmed its finding in *Baker*, that "where the interests of children are minimized, in a manner inconsistent with Canada's humanitarian and compassionate tradition and the Minister's guidelines, the decision will be unreasonable" (*Kanthasamy* at para 38, citing *Baker* at para 75). The Court also re-affirmed that a reasonable best interests of the child analysis requires that a child's interests be "'well-identified and defined' and examined 'with a great deal of attention' in light of all the evidence" (*Kanthasamy* at para 39, citing *Legault v Canada (Minister of Citizenship and Immigration)*),

2002 FCA 125 (CanLII), [2002] 4 FC 358 (CA) at paras 12, 31; *Kolosovs v Canada (Minister of Citizenship and Immigration)*, 2008 FC 165 at paras 9-12).

[20] I cannot agree with the Respondent that the children's interests were well-identified by the Officer. Except for a few perfunctory blanket statements, there is a lack of analysis on the key issue of the best interests of the eight children affected by this decision.

[21] The Officer fails to meaningfully engage with the evidence about the children in assessing their best interests. The Officer's reasoning falls below the standard of analysis required in determining children's best interests set out by the Supreme Court of Canada in *Baker and Kanthasamy*. This is a sufficient basis to find the decision unreasonable and send it back for redetermination.

B. *Hardship of Return*

[22] Ms. Safdar asked for relief based on the hardship she would face as a single, elderly, Shia woman with multiple mental and physical health issues. Ms. Safdar provided an affidavit, medical reports and numerous country condition documents. The Officer found "while I have considered the statements by the representative and the applicant, they are not unusual in comparison to the situation of others similarly situated to her in Pakistan." And later again the Officer found "the evidence does not lead me to determine that the applicant's circumstances are unusual in comparison to the situation of others similarly situated to her in Pakistan."

[23] As has been found numerous times by this Court, it is unreasonable for an Officer to require that their hardship is greater than others in their country of removal : “[T]he focus should be upon the hardship to the individual and, once established, that hardship need not be greater than that faced by anyone else in that country” (*Maroukel v Canada (Citizenship and Immigration)*, 2015 FC 83 at para 35).

[24] The Officer also noted that “the representative has submitted many articles in regards to country conditions in Pakistan, yet neglects to explain how the accompany articles relate directly to the applicant.” This statement is inaccurate. Ms. Safdar’s counsel explained in detail how she as a single Shia woman would face hardship in Pakistan and referenced specific parts of the documentary evidence in support of these submissions. As the Supreme Court of Canada confirmed in *Kanthasamy*, decision-makers can make reasonable inferences on hardship based on the generalized country condition evidence (at para 56).

[25] Lastly, the Officer erroneously stated that there was no impediment to the applicant returning to where she had lived in Pakistan. Ms. Safdar’s evidence was that she faced verbal abuse from her landlord after her son left and worried about being able to find a landlord who was not abusive and would take her on as a tenant. The Officer did not mention Ms. Safdar’s evidence that directly contradicted their finding about impediments to returning.

[26] The application for judicial review is allowed. Neither party raised a question for certification and I agree none arises.



**JUDGMENT in IMM-6977-24**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is allowed;
2. The decision dated February 7, 2024 is set aside and sent back to be redetermined by a different decision-maker; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-6977-24

**STYLE OF CAUSE:** SHAHZADA SAFDAR v MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MAY 21, 2025

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** OCTOBER 24, 2025

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