

Federal Court



Cour fédérale

Date: 20230315

Docket: IMM-6950-21

Citation: 2023 FC 335

Ottawa, Ontario, March 15, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

KARIKALAN SOMASUNDRAM

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Karikalan Somasundram (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 for the RPD was the availability of an Internal Flight Alternative (“IFA”); the RAD reached the same conclusion.

[2] The Applicant named the “Minister of Immigration, Refugees and Citizenship” as the respondent in his originating document. Since there is no such Minister, the style of cause will be amended, *nunc pro tunc*, to name the “Minister of Citizenship and Immigration” (the “Respondent”).

[3] The Applicant is a citizen of India, living in the area of Therkku Nanlur, Tamil Nadu. He sought protection based upon a fear of Muslim extremists, namely the Tamil Nadu Muslim Munnetra Kazhagam (the “TMMK”), and a fear of the Indian police whom he described as corrupt and a source of information to the TMMK.

[4] The Applicant provided details of acts of aggression undertaken against him. The RAD found that an IFA was available to the Applicant in Chennai.

[5] The Applicant now argues that the RAD’s decision is unreasonable because it failed to engage with the evidence and did not consider the difficulties he will face in the proposed IFA location.

[6] The Respondent submits that the RAD made no reversible errors.

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

[8] 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.

[9] The test for a viable IFA is addressed in *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 at 710-711 (F.C.A.). The test is two pronged and provides as follows:

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

[10] In order to show that an IFA is unreasonable, an applicant must show that conditions in the proposed IFA would jeopardize life and safety in travelling or relocating to that IFA; see *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 at 596-598 (F.C.A.).

[11] Considering the evidence that was before the RAD and the submissions of Counsel, I am not persuaded that the decision fails to meet the standard of reasonableness.

[12] The RAD addressed the two elements of the IFA test. It engaged with the evidence, and that evidence supports its findings on both elements.

[13] In the result, the application for judicial review will be dismissed, there is no question for certification.

JUDGMENT in IMM-6950-21

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question for certification.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6950-21

STYLE OF CAUSE: KARIKALAN SOMASUNDRAM v. THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 28, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: MARCH 15, 2023

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