

Federal Court



Cour fédérale

Date: 20241212

Docket: IMM-16477-23

Citation: 2024 FC 2010

Ottawa, Ontario, December 12, 2024

PRESENT: The Honourable Madam Justice Strickland

BETWEEN:

MUHAMMED SHABAZ BHATTI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Muhammed Shabaz Bhatti, seeks judicial review of the decision of the Refugee Appeal Division [RAD] upholding the Refugee Protection Division's [RPD] determination that the Applicant is neither a Convention refugee nor a person in need of protection, pursuant to ss 96 and 97, respectively, of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

Background

[2] The Applicant is a citizen of Pakistan who claims to fear being killed by members of the Sunni religious extremist group, Sipah-e-Sahaba Pakistan [SSP]. The Applicant claims that he converted from the Sunni to the Shia faith and was subsequently targeted by the SSP because of his prominent volunteer role and activities at the local Imam Bargah.

[3] On September 18, 2023, the RPD rejected the Applicant's claim. It found that the determinative issue was credibility. Specifically, the RPD found that the Applicant's overall credibility was undermined by numerous discrepancies, inconsistencies and omissions in the evidence concerning his claim for protection, and his misrepresentation in the temporary resident visa [TRV] applications made prior to his refugee claim (and for which he had been found to be inadmissible to Canada). Considering its credibility findings cumulatively, the RPD found that the Applicant was generally lacking in credibility and, on a balance of probabilities, that none of the significant events that he alleged actually happened. Accordingly, the RPD found that the Applicant had not established that he was targeted by the SSP due to his conversion from Sunni to Shia and his prominent role in the Imam Bargah. This was fatal to his claim.

[4] The Applicant appealed to the RAD.

Decision Under Review

[5] On November 29, 2023, the RAD upheld the decision of the RPD and dismissed the Applicant's appeal. Like the RPD, the RAD found that the Applicant's credibility was the

determinative issue. Specifically, the RAD found that the Applicant had not established his core allegations, on a balance of probabilities, and was generally not credible.

[6] The RAD individually addressed each of the RPD's credibility findings as well as the Applicant's allegations of errors by the RPD with respect to those findings. The RAD provided reasons as to why it agreed with the RPD on each of the alleged errors.

[7] In that regard, the RAD first concluded that the RPD correctly found that the Applicant did not establish his alleged proactive role at the Imam Bargah. In his Basis of Claim [BOC] form, the Applicant indicated that he participated in almost all programs of the Imam Bargah, attended more events than other members, and that his volunteer activities were "extraordinary". The BOC evidence also indicated that the executive committee of the Imam Bargah appointed the Applicant as General Secretary of the Youth Wing due to his passion and activism. The RPD found that the Applicant failed to establish his attendance, volunteer contributions and prominence at the Imam Bargah, which formed the basis of his claim and went to the core allegations as they relate to his profile as a Shia convert who came to the attention of Sunni hardliners due to his role at the Imam Bargah. The RAD found that the Applicant's failure to establish his allegations regarding his role and participation "went to the heart of his claim and significantly undermined his credibility". The RAD reviewed the evidence and found that the Applicant did not establish more than minimal attendance, nor did he establish that his activities at the Imam Bargah were "extraordinary", on a balance of probabilities. The RAD found that the RPD had correctly assessed the evidence with respect to this credibility finding and agreed with it.

[8] The RAD also found that the RPD correctly assessed the evidence about the Applicant's appointment as General Secretary of the Youth Wing. The RPD asked the Applicant to explain the omission in his BOC as to when he was appointed. It found that his testimony was not responsive to the question and instead addressed how he was appointed. The RPD found that the Applicant did not reasonably explain the omission. The RAD addressed the evidence and found that the Applicant's testimony as to why he was appointed was inconsistent. The RAD rejected the Applicant's argument that the RPD unreasonably found that his failure to remember the exact date he was appointed to General Secretary of the Youth Wing undermined his credibility. It found that this was not the basis of the RPD's negative credibility concern; rather, the concern was that he failed to reasonably explain why he provided no evidence in his BOC about the timing of the appointment, particularly in light of the inconsistency between his testimony and the BOC evidence about what led to the committee's decision.

[9] Further, the RAD found that the RPD correctly assessed the Applicant's supporting evidence. With respect to a letter from the Imam Bargah dated February 20, 2023, that stated, among other things, that the Applicant adopted the Shia faith in June 2020, later acted as General Secretary, and that the administration was very happy with his volunteer work, the RAD found that the letter provided no evidence about how, when or why the Applicant became General Secretary. It was also silent on any details about the Applicant's attendance or volunteer contributions. The RAD found that the RPD was not required to seek out evidence that the Applicant did not present. The RAD afforded the letter low weight and found it insufficient to overcome the existing credibility concerns.

[10] The RAD rejected the Applicant's argument that, in reaching its conclusion that the Applicant did not establish his role at the Imam Bargah, the RPD erred by incorrectly relying on the absence of corroborative evidence. The RAD found that the RPD determined that the Applicant's documentary evidence was insufficient to overcome its existing credibility concerns. This was not an adverse credibility finding.

[11] The RAD next found that the RPD correctly determined that the Applicant's evidence about his problems in Pakistan was not credible. In that regard, the Applicant alleged in his BOC that the local Sunni mufti ordered his murder and that he began receiving telephone threats from the SSP. The RPD found that the Applicant's testimony about when these events occurred was inconsistent and evolving, and that he did not reasonably explain the omission from his BOC of any evidence about the timing of these events. Consequently, the RPD found that the Applicant's evidence about when his problems in Pakistan began was not credible, which undermined his overall credibility. The RAD identified the Applicant's arguments on appeal and found that they did not address the RPD's findings on this point or the basis for it. Regardless, the RAD went on to address each argument and the evidence.

[12] The RAD also found no error in the RPD's failure to consider or to make findings on state protection. The RPD did not identify state protection as an issue and did not need to consider it because the Applicant did not establish that he was targeted by the SSP. Similarly, the RPD did not err in not addressing the objective evidence indicating that converts to the Shia faith face a heightened risk of persecution by religious extremists. This was because the RPD found

that the Applicant was generally not credible and did not establish any of the significant events he alleged.

[13] The RAD next determined that the RPD correctly found that the Applicant's testimony was inconsistent with the objective evidence concerning Shia converts. The RAD rejected the Applicant's argument that the RPD failed to consider that he was a recent convert and lived in a city not far from Lahore, where significant Shia communities exist. The RAD was not persuaded by the Applicant's argument that, prior to his conversion, he did not know anything about the treatment of Shias in Pakistan or that conversion to the Shia faith would endanger him. The RAD found that many people chose to practice a faith knowing it may place them at risk, and that this does not make their conversion implausible. However, what the RAD did find implausible was the Applicant's testimony that he had no knowledge that becoming a Shia convert could expose him to risks that he did not face as a Sunni Muslim. Given the widespread nature of anti-Shia sentiment in Pakistan, which the RAD addressed when referencing the country condition evidence, the Applicant's lack of awareness prior to his conversion was not reasonably explained and, in the Applicant's personal circumstances, was not credible.

[14] The RAD then concluded that the RPD correctly found that the Applicant's attendance at the Imam Bargah in Scarborough, Ontario was inconsistent with his alleged profile as a dedicated convert to the Shia faith. Before the RAD, the Applicant argued that the RPD erred and applied an objective test when it concluded that his attendance at the Imam Bargah in Scarborough was inconsistent with his profile as a proactive Shia. He argued that faith is subjective, and it is not mandatory for a Shia to attend an Imam Bargah frequently. The RAD

found, however, that this was not the RPD's finding. Rather, the RPD found that the Applicant's attendance was inconsistent with his claims about his profile as a Shia Muslim. That is, the Applicant alleged that in Pakistan, he participated in almost all of the programs at the Imam Bargah and the extent of his volunteer activities was extraordinary. In its review of the record, the RAD found no error in the RPD's assessment of the evidence. The Applicant's testimony about his attendance was inconsistent with his alleged profile as a convert to Shia Islam active in his community. This undermined his credibility.

[15] The RAD noted that the Applicant had testified that his attendance was infrequent because he lives in downtown Toronto, the Imam Bargah is in the suburb of Scarborough, and he had no means to get there. The RAD found that the Applicant provided no explanation as to why public transit was not an option and that it was reasonable to assume that he could use public transit. Therefore, the Applicant's testimony that he had no way to get to the Imam Bargah was insufficient to explain his infrequent attendance in light of his alleged devotion to and interest in the Shia faith.

[16] The Applicant also argued that the RPD erred as it did not verify the authenticity of a letter from the Imam Bargah in Scarborough, asserting that it would only be reasonable to draw an adverse credibility inference if the letter was fraudulent. The RAD disagreed. The RAD stated that both it and the RPD accepted the letter as authentic. However, the RAD afforded it low weight for the reasons it set out. The RAD found the letter insufficient to overcome credibility concerns arising out of the inconsistency between the Applicant's testimony and his alleged profile as an enthusiastic convert to the Shia faith who is active in the community.

[17] The RAD next found that the RPD correctly determined that the Applicant's misrepresentations in his TRV applications undermined his credibility. The RAD agreed with the RPD that, while the misrepresentations did not go to the heart of the claim, the Applicant's willingness to provide false information in those applications undermined his credibility. In doing so, the RAD rejected the Applicant's argument that a person in danger cannot be expected to conduct due diligence of his visa applications, noting that the TRV applications predated the Applicant's conversion to the Shia faith. Similarly, the RAD rejected the Applicant's argument that the RPD did not consider the country condition evidence about fatwas. Referring to its findings above, the RAD also did not agree that the RPD failed to identify any discrepancies between his BOC and testimony evidence, and relied only on discrepancies in his TRV applications to impugn his credibility. The RAD found that the Applicant did not make reasonable efforts to ensure that the information in his TRV applications were truthful and that the documents submitted were authentic. As such, the RAD drew a negative inference because of the Applicant's willingness to deceive immigration authorities.

[18] Finally, the RAD found that the Applicant's supporting documents did not overcome its credibility concerns. The RAD described each of the documents and found that they were all brief and lacking detail. As such, the RAD afforded the statements low weight and found them insufficient to overcome credibility concerns arising out of the Applicant's testimony.

[19] In sum, the RAD found that the Applicant failed to establish his allegations on a balance of probabilities and was generally not credible. He had not established that he embraced the Shia faith or that he was targeted by the SSP. Accordingly, that he failed to establish that in Pakistan

he faces a serious possibility of persecution or a danger of torture, risk to life, or risk of cruel and unusual treatment or punishment.

Issues and Standard of Review

[20] In my view, the relevant issues identified by the Applicant all fall under the umbrella question of whether the RAD's decision was reasonable.

[21] As submitted by the Respondent, the applicable standard of review of the merits of the RAD's decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 10, 23 and 24 [*Vavilov*]). On judicial review, "the reviewing court asks whether the decision 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" (*Vavilov*, at para 99).

Analysis

[22] In this matter, the Applicant challenges the credibility findings of the RAD.

[23] Accordingly, as a starting point, it is significant to note that credibility assessments generally "command a high degree of judicial deference upon judicial review, considering the role of trier of fact conferred to the administrative tribunal" (*Pham v Canada (Citizenship and Immigration)*, 2023 FC 470 at para 19, citing *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at paras 15–16 [*Lawani*]). The accumulation of contradictions, inconsistencies and

omissions regarding crucial elements of a refugee claim can support the conclusion that the applicant lacks credibility (*Lawani*, at para 22, citing *Sary v Canada (Citizenship and Immigration)*, 2016 FC 178 at para 19 and *Quintero Cienfuegos v Canada (Citizenship and Immigration)*, 2009 FC 1262 at para 1). Further, a lack of credibility regarding central aspects of a refugee claim can also extend to other elements of the claim (*Lawani*, at para 24, citing *Sheikh v Canada (Minister of Employment and Immigration)*, [1990] FCJ No 604 (FCA) (QL) at paras 7–8). And, conclusions concerning an applicant’s credibility can be based on implausibilities, common sense and rationality. A decision-maker can reject evidence if it is inconsistent with the probabilities affecting the case as a whole, or where inconsistencies are found in the evidence (*Lawani*, at para 26, citing *Shahamati v Canada (Minister of Employment and Immigration)*, [1994] FCJ No 415 (FCA) (QL) at para 2 and *Mohamed v Canada (Citizenship and Immigration)*, 2015 FC 1379 at para 25, amongst others).

[24] As to the specifics of the Applicant’s submissions, I will address these below. However, more generally, I conclude that it was reasonable for the RAD to find that the Applicant did not establish his alleged profile as a highly active member of his Imam Bargah and to agree with the RPD in that regard. In his BOC, the Applicant claimed that it was due to his “extraordinary” volunteer activities, among other things, that made him a target of the SSP. The RAD reasonably found that this high degree of involvement went to the heart of his claim. However, that his testimony before the RPD concerning his actual attendance and participation was not consistent with the statements in his BOC. He did not establish more than minimal attendance or that his activities were extraordinary. Given that this finding was central to the Applicant’s claim, it was

also reasonable for the RAD to find that the inconsistency significantly undermined his credibility.

[25] I will now address the specific errors alleged by the Applicant.

i. Lack of Documentation

[26] The Applicant states that the RAD found that there was a lack of documentation to support his refugee claim. He provides no specifics in support of this assertion, and in his submissions, only provides a reference to *Ali v Canada (Citizenship and Immigrations)*, 2012 FC 259 [*Ali*] which the Applicant submits stands for the proposition that applicants cannot be held to be less credible simply because their documentary evidence does not cover the “specifics” to the satisfaction of the decision-maker. At the hearing, Applicant’s counsel also referred the Court to two additional cases on this issue.

[27] I note that the Applicant makes the above general statement but does not identify an error in the RAD’s decision. This alone serves to dispense with this point. In any event, as the Respondent points out, the RAD did not make any findings regarding a lack of documentation to support the refugee claim. Rather, having found the Applicant lacked credibility, the RAD considered the supporting documents and concluded that they were insufficient to overcome the credibility concerns identified given that they did not provide details concerning core aspects of the Applicant’s claim. The Applicant has not challenged this. Nor has he suggested that any of his supporting documents demonstrate: (i) his level of attendance and participation in the Imam Bargah; (ii) the timing and reason for his appointment to a prominent role; (iii) when the alleged

issues with the SSP began; and, (iv) most importantly, that the documents overcome the RAD's credibility concerns.

[28] To that end, the decisions raised by the Applicant at the hearing do not assist him. The Applicant referred to paragraph 38 of *Kaya v Canada (Citizenship and Immigration)*, 2023 FC 123 [*Kaya*], which are the applicant's submissions in that case and which reference *Chen v Canada (Citizenship and Immigration)*, 2013 FC 311 at paras 20–21 [*Chen*]. *Chen* explains that it is "impermissible to reach a conclusion on [a] claim based on certain evidence and dismiss the remaining evidence as inconsistent with that conclusion." That is not the circumstance in this case. Here, the RAD determined that the Applicant lacked credibility because he could not establish the core elements of his story and that his supporting documents did not clarify the key omissions or ambiguities. Similarly, *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1583 [*Singh*] does not assist the Applicant.

[29] And, finally, *Ali* is distinguishable. There, the decision-maker based its findings solely on deficiencies in the supporting documentary evidence and alleged implausibility. The Court held that a decision-maker "cannot find the applicant not credible just because the documents did not contain all the details the Board would have preferred, particularly where the Board has identified no inconsistencies with the applicant's evidence or between the applicant's evidence and the documents" (para 15). That is not the circumstance in this case. The RPD and the RAD identified several omissions and inconsistencies in the Applicant's evidence, which he was unable to satisfactorily address.

ii. Previous TRV Applications

[30] The Applicant submits that although the RPD and the RAD acknowledged that his TRV applications predated his refugee claim and did not go to the heart of the matter, the adverse findings drawn from these applications “tainted” the RAD’s perspective of the evidence and caused it “to impose unreasonable stringent standards to subsequent documentary evidence.”

[31] Again, the Applicant provides no specifics to demonstrate how this allegation manifested itself in the RAD’s decision. Nor does he dispute that his TRV applications contained false information. And, as the Respondent submits, the RAD explained that while his prior TRV applications did not go to the heart of the Applicant’s claim, they were relevant. Specifically, the RAD deemed them relevant because, in the absence of a reasonable explanation as to why the Applicant did not ensure that the information in his applications was accurate and authentic, they demonstrated the Applicant’s willingness to deceive immigration officials.

[32] When appearing before me, the Applicant submitted that the RAD erred in drawing a negative credibility finding based on the fact that both of his TRV applications contained false information. However, the jurisprudence is clear that applicants are responsible for the content of their applications (see e.g., *Goudarzi v Canada (Citizenship and Immigration)*, 2012 FC 425 at para 42; *Cao v Canada (Citizenship and Immigration)*, 2010 FC 450 at para 31; *Haque v Canada (Citizenship and Immigration)*, 2011 FC 315 at para 15). Accordingly, there is no merit to the Applicant’s submission that he was entitled to rely on his agent with respect to the accuracy of

the TRV applications (the refusals of which were not at issue before the RPD, the RAD or this Court) thereby precluding an adverse credibility finding.

[33] In my view, the RAD was entitled to find that the Applicant's provision of false information to Canadian authorities, prior to the date on which his risks allegedly crystalized, undermined his credibility. As such, it was open to the RAD to draw an adverse inference (*Zhu v Canada (Citizenship and Immigration)*, 2020 FC 318 at paras 6, 17–19). The RAD did not err in its treatment of the TRV applications.

iii. Timing of Appointment to General Youth Secretary

[34] The Applicant asserts, with respect to the timing of his appointment to General Youth Secretary, that the RPD and the RAD erred. He submits that he was not required to identify the exact date of his appointment, nor was he required to provide corroborative evidence because the lack of same, in and of itself, cannot sustain a negative credibility determination (citing *Zheng v Canada (Citizenship and Immigration)*, 2007 FC 1274 at para 15 [*Zheng*]).

[35] There is no merit to this assertion. The Applicant made this same argument before the RAD, which pointed out that what the Applicant asserted was not, in fact, the RPD's finding:

[14] The RPD member asked the Appellant why he omitted to mention in his BOC the timing of his appointment. The Appellant gave testimony about how the appointment was made in the presence of a committee and said that he could not recall the exact date. The Appellant argues that it was unreasonable of the RPD to find that the Appellant's failure to remember the exact date of his appointment undermined his credibility. *I reject this argument because this was not what the RPD found.* The RPD member said to the Appellant that he was *not* expected to remember the exact

date of his appointment but what the member was trying to understand was the timeline and the Appellant was asked to estimate the timing of the appointment. *The panel's negative credibility concern was not based on the Appellant's failure to recall the exact date of the appointment. It was based on his failure to reasonably explain why he provided no evidence at all in his BOC about the timing of the appointment, particularly in light of the inconsistency between his testimony and the evidence in his BOC about what led to the committee's decision.*

(emphasis added)

[36] As the Respondent submits, the RAD also explained that this appointment was crucial to the Applicant's claim as he alleged that his appointment is what led to his issues with the local mufti and then the SSP. More specifically, the RAD justified that the timing of the appointment was crucial because, after the appointment, the Applicant began inviting his Sunni friends to attend the Imam Bargah, which led to their families complaining to the local mufti who declared the Applicant to be an infidel and informed the SSP about him. Additionally, his appointment was a formal recognition of his role at the Imam Bargah. Accordingly, the RAD reasonably drew a negative credibility inference based on the Applicant's failure to reasonably explain why he did not provide any evidence in his BOC about the timing of his appointment. The Applicant's repetition of the arguments he made to the RAD on this point do not disclose an error with the RAD's analysis. Further, *Zheng* has no application as this is not a situation where a lack of corroborative evidence, in and of itself, was found to sustain a negative credibility determination.

iv. Scarborough Imam Bargah Letter

[37] According to the Applicant, the RAD stated, "...I accept the letter as authentic, as did the RPD. However, I give it low weight" and that this is a reviewable error as documents are either

genuine or false, and therefore it is not possible to attach “little probative value” to them (citing *Warsame, Mohamed Dirie v MEI (ECTD)* no A-758-92, Nadon, November 15 1993). The Applicant submits that as such, “while the member did find the letter to be authentic, he indicated he gave it low weight instead of no weight which would be the case if they disbelieved it”. The Applicant also asserts that the RAD improperly mistook evidence of attendance at the Imam Bargah for evidence of religion.

[38] Again, there is no merit to this submission. First, this is not a circumstance where the decision-maker did not make a finding as to authenticity but afforded the document low probative value. Here the RAD (and the RPD) found the letter to be authentic. It was open to the RAD to afford the letter low weight for other reasons.

[39] Second, the Applicant made this same argument before the RAD. The RAD noted that the Applicant had argued that the RPD erred and applied an objective test without recognizing that faith is subjective and that it is not mandatory for a Shia to attend an Imam Bargah on a frequent basis. However, the RAD found that the RPD did *not* find that the Applicant’s infrequent attendance was inconsistent with being a Shia Muslim. Rather, the RPD found that it was inconsistent with the Applicant’s allegations about his profile as a devout Shia Muslim. The RAD stated that on its review of the record, it found no error in the RPD’s assessment of the evidence. The Applicant’s testimony about his attendance was inconsistent with his alleged profile as a convert to Shia Islam active in his faith community. This undermined his credibility. The RAD explained why it did not accept as sufficient, in light of the Applicant’s alleged devotion to and interest in the Shia faith, his testimony about why he did not attend more

frequently (distance from downtown Toronto). The RAD afforded the letter low weight because it included no details about how often the Applicant attended, it is addressed “to whom it may concern”, and stated that the association appreciates the Applicant’s attendance, but there is no indication that the signatory (the director) knew the Applicant personally. The RAD found that the evidence in the letter was insufficient to overcome credibility concerns arising out of the inconsistency between the Applicant’s testimony and his alleged profile as an enthusiastic and proactive convert to the Shia faith. In my view, it was reasonable for the RAD to afford the letter low weight and to find that it did not overcome the other credibility concerns. No reviewable error arises.

v. Evidence of Attacks by the SSP

[40] The Applicant submits that the RAD failed to properly consider his evidence about two attempts by the SSP to kill him. This evidence went to the heart of his claim but the RAD did not believe that these events occurred and did not provide reasons for the dismissal of this importance evidence. Instead, it focused on inconsistencies or omissions in other evidence as a basis to disbelieve the attacks.

[41] However, as the Respondent submits, the RAD did not ignore the Applicant’s allegations about being attacked by SSP members and, in its reasons, addressed this argument directly. In that regard, the RAD noted that the Applicant argued that the RPD: (i) ignored his evidence about the dates when members of the SSP shot at him; (ii) failed to recognize that there is no state protection for Shias in Pakistan; and (iii) erred in not giving weight to the Applicant’s circumstance as a convert from a Sunni family who faces a higher risk of persecution by militant

groups, by virtue of that fact. The RAD found that these arguments did not address the RPD's finding or the basis for it. Nonetheless, it addressed each argument in turn.

[42] As the Respondent points out, the RAD first acknowledged that the Applicant provided the dates of his alleged attacks, but noted that this did not address the inconsistencies and omissions in his evidence regarding when his problems in Pakistan first began. Further, the Applicant's failure to establish the timeline of the mufti's order to have him killed and of the telephone threats from the SSP undermined his credibility regarding these attacks. The RAD found that the Applicant's evidence about when the alleged attacks occurred did not overcome the lack of credible evidence about the beginning of the Applicant's problems in Pakistan. That is, his failure to establish that his actions as a devout Shia convert attracted the attention of the SSP. Having concluded that the Applicant failed to credibly establish that he was targeted by the SSP, the RAD was not required to engage in a further analysis on the details of the alleged attacks themselves.

vi. Failure to Consider Country Conditions Documentation

[43] The Applicant submits that the RAD erred in failing to examine country conditions evidence regarding how converts from the Sunni to Shia faith are treated in Pakistan, and that this examination must be undertaken even if an applicant is found not credible (citing *Baranyi v Canada (Citizenship and Immigration)*, 2001 FCT 664 at para 14; *Maimba v Canada (Citizenship and Immigration)*, 2008 FC 226 at para 22 [*Maimba*]; *KS v Canada (Citizenship and Immigration)*, 2015 FC 999 at para 41 [*KS*]). The RAD found there was evidence that Shia converts were subject to greater risks but erred in disbelieving that the Applicant was a Shia

convert. As such, the Applicant submits that the RAD did not consider the actual risk to the Applicant. The RAD's failure to consider whether the country conditions render the Applicant a person in need of protection under s 97 is a reviewable error.

[44] The Respondent submits that the Applicant has not shown that he provided sufficient evidence capable of supporting a positive s 97 finding. The RAD's central conclusions in its decision were that the Applicant failed to establish his allegations and is generally not credible. The RAD specifically noted that the Applicant did not establish he has embraced the Shia faith, and was targeted by the SSP. In finding that the Applicant was not a Convention refugee, the RAD also found that the Applicant did not demonstrate a s 97 risk. While the RAD did acknowledge the country conditions for people of the Shia faith, it concluded that the Applicant did not credibly establish his religious profile. The onus was on the Applicant to establish a s 97 claim and it was not for the RAD to engage in this risk analysis without sufficient evidence (citing *Canada (Citizenship and Immigration) v Sellan*, 2008 FCA 381 at para 3; *Dag v Canada (Citizenship and Immigration)*, 2017 FC 375 at paras 8–19; *Ugaas v Canada (Citizenship and Immigration)*, 2021 FC 411 at para 28).

[45] I note that the RAD explained why the RPD was correct in not addressing this objective evidence:

[28] The RPD did not address the objective evidence that converts to the Shia faith face a heightened risk of persecution by religious extremists. I see no error in this. This is because the RPD found that the Appellant was generally not credible and did not establish any of the significant events he alleged, including his conversion to the Shia faith.

[46] Indeed, at paragraphs 26 and 28 of the RPD's decision, the RPD determined that the Applicant's "lack of awareness about the mistreatment of Shia in Pakistan prior to his alleged conversion undermines the credibility of his conversion and the basis of his claim". This contributed to the RPD's conclusion that the Applicant "was generally lacking in credibility", which included "the credibility of his conversion to Shia". The RAD arrived at a similar conclusion. Specifically, it found that the Applicant was "generally not credible" and that the Applicant did not establish that he "embraced the Shia faith".

[47] In light of this, the Applicant's reliance on *KS* and *Maimba* does not assist him. Both *KS* and *Maimba* contemplate a decision-maker first having accepted the applicant's identity or risk profile. Here, the RAD clearly reasoned that the Applicant had not established that he embraced the Shia faith and was generally not credible. Therefore, the Applicant did not establish the claimed risk profile of a Shia convert residing in Pakistan. It was reasonable for the RAD not to consider the objective country evidence in this circumstance.

Conclusion

[48] For the reasons above, I find that the RAD's decision was justified, transparent and intelligible and, therefore, reasonable.

JUDGMENT IN IMM-16477-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed;
2. There shall be no order as to costs; and
3. The Court declines to certify the question proposed by the Applicant for certification.

"Cecily Y. Strickland"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-16477-23

STYLE OF CAUSE: MUHAMMED SHABAZ BHATTI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: DECEMBER 4, 2024

JUDGMENT AND REASONS: STRICKLAND J.

DATED: DECEMBER 12, 2024

APPEARANCES:

Seonghee Cho	FOR THE APPLICANT
Diane Gyimah	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Grice and Associates Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT