

Federal Court



Cour fédérale

**Date: 20161230**

**Docket: IMM-680-16**

**Citation: 2016 FC 1421**

**Ottawa, Ontario, December 30, 2016**

**PRESENT: The Honourable Madam Justice Roussel**

**BETWEEN:**

**AHMED BIN SOHAIL CHEEMA**

**Applicant**

**And**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, Ahmed Bin Sohail Cheema, seeks judicial review of the decision of a Pre-Removal Risk Assessment [PRRA] Officer, made on December 17, 2015, refusing his PRRA application. The PRRA Officer determined that Mr. Cheema would not be subject to the risk of persecution, danger of torture, risk to life or risk of cruel and unusual treatment or punishment if returned to Pakistan, his country of nationality.

[2] For the reasons that follow, the application for judicial review is dismissed.

I. Background

[3] Mr. Cheema claims that during his college years in Lahore, Pakistan, he organized interfaith harmony meetings in an attempt to eliminate animosity between the Sunni majority and the Shia minority of Muslims.

[4] In July 2011, he was granted a student visa to come to Canada, following his mother's wish to have him study abroad. The following month, he received a call from the Lashqar-e-Jhangvi [LeJ], a militant Sunni organization, threatening him with dangerous consequences unless he stopped his Shia religious activities and activities for interfaith harmony. As he had already been granted a visa for Canada, he decided to leave on the first available flight. He did not report that threat to the police, as he and his mother were convinced it would be futile.

[5] He came to Canada in August 2011 and his study permit, set to expire in January 2013, was subsequently extended until March 2015. However, he returned to Pakistan in September 2014 due to a shortage of funds.

[6] Upon his return to Pakistan, he organized an interfaith harmony meeting scheduled to occur on November 26, 2014. Two (2) days before the meeting was to take place, he received a phone call on his cell phone from an unknown caller and number. The caller notably threatened him with a suicide bomb attack on the meeting and the killing of all its participants if it was not immediately cancelled.

[7] Mr. Cheema filed a police complaint regarding the matter. Despite initially unwilling to register a report since Mr. Cheema did not have the identity of the caller, with the insistence of his brother who was a lawyer in Lahore, the police registered a First Information Report [FIR]. The police did not provide him with protection but advised Mr. Cheema and his brother to cancel the meeting immediately in order to keep the participants at the meeting and himself from being killed. The following day, he received another phone call from an unknown caller and number and was told that contacting the police and registering another FIR would not make any difference. He was also told that if he tried to contact the police again, it would be more dangerous for him. Frightened, Mr. Cheema left Pakistan on December 2, 2014 and returned to Canada since he still had a valid visa.

[8] In September 2015, approximately four (4) months after the expiry of his temporary resident status, he was stopped and detained by the Canada Border Services Agency at Fort Erie. An inadmissibility report was prepared as a result of him staying in Canada beyond the authorized period and an exclusion order was issued against him. Ineligible to make a refugee claim, Mr. Cheema therefore submitted an application for a PRRA in which he alleges that his life is at risk from members of the LeJ extremist group and /or other militant Sunni Muslim organizations, as a result of his being a Shia activist and volunteer in organizing interfaith harmony meetings.

[9] The PRRA Officer rejected Mr. Cheema's application, finding that he was neither a Convention Refugee nor a person in need of protection. The PRRA Officer accepted that Mr. Cheema was involved in volunteer work in Pakistan and that he was involved in organizing

a meeting. The PRRA Officer also accepted that the police took Mr. Cheema's statement regarding the call on November 24, 2014. Notwithstanding, the PRRA Officer found that Mr. Cheema had not provided clear and convincing evidence to rebut the presumption of state protection or sufficient corroborative evidence to demonstrate that he faces a personalized forward looking risk if he returned to Pakistan.

[10] Mr. Cheema now seeks judicial review of this decision.

## II. Analysis

[11] Despite raising a number of issues, Mr. Cheema conceded at the hearing that the issue of state protection is determinative in these proceedings. He submits that the PRRA Officer adopted and applied the wrong test for state protection by considering state efforts as opposed to the operational adequacy of state protection for someone in his particular situation. He also submits that the PRRA Officer reached unreasonable conclusions as to the availability of state protection in Pakistan.

[12] In considering whether the PRRA Officer adopted and applied the appropriate test for state protection, the correctness standard of review applies (*Go v Canada (Citizenship and Immigration)*, 2016 FC 1021 at para 7 [*Go*]; *Buri v Canada (Citizenship and Immigration)*, 2014 FC 45 at paras 17-18, citing *Ruszo v Canada (Citizenship and Immigration)*, 2013 FC 1004 at para 22).

[13] The adequacy of state protection is however a question of mixed fact and law to be evaluated on the standard of reasonableness (*Hinzman v Canada (Citizenship and Immigration)*, 2007 FCA 171 at para 38; *Go* at para 10; *Marqeshi v Canada (Citizenship and Immigration)*, 2016 FC 932 at para 16; *Mrda v Canada (Citizenship and Immigration)*, 2016 FC 49 at para 24).

[14] It is well established, that in reviewing a decision against the reasonableness standard, the Court must consider whether the decision “falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law” (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47 [*Dunsmuir*]). Deference is owed to the decision maker. While there might be more than one reasonable outcome, “as long as the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility, it is not open to a reviewing court to substitute its own view of a preferable outcome” (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59).

[15] Mr. Cheema argues that the PRRA Officer erred in considering the adequacy of state protection in Pakistan. Specifically, he argues that the PRRA Officer failed to recognize that the adequacy of state protection must be assessed on an operational level.

[16] I am satisfied that the PRRA Officer applied the correct test in determining whether state protection was available to Mr. Cheema. In discussing state protection, the PRRA Officer focussed on the presumption that the state is able to provide protection to its citizens. He states:

Furthermore, barring a complete breakdown of state apparatus, there is a presumption that the state is able to provide protection to its citizens. No state is expected to provide perfect protection to all citizens at all times; state protection is considered adequate if the

state is in effective control of its territory, has military, police and civil authority in place, and makes serious efforts to protect its citizens. An applicant is required to approach his or her state for protection in situations in which protection might be reasonably forthcoming, before seeking international protection. The applicant can rebut the presumption of state protection by providing clear and convincing evidence that the state was unable to provide the necessary protection.

[17] While the reference to “serious efforts” might suggest that the PRRA Officer applied the wrong test and only considered the efforts of the state to determine state protection, the PRRA Officer thereafter noted that the police were willing to accept Mr. Cheema’s complaint as a FIR was registered and that the complaint was forwarded to superiors and submitted to an officer for investigation purposes. From this, he deduced that the authorities were willing to review Mr. Cheema’s complaint and found that there was insufficient evidence as to why Mr. Cheema could not approach the authorities again for assistance, thus failing to rebut the presumption of state protection. When read as a whole, I am satisfied that the PRRA Officer understood that the issue was the ability of the Pakistani authorities, in this case the police, to provide Mr. Cheema protection at an operational level.

[18] Mr. Cheema also submits that the PRRA Officer’s findings regarding the adequacy of state protection and his failure to rebut the presumption of state protection were unreasonable. He argues that the PRRA Officer ignored and failed to address the objective documentary evidence which demonstrated that it was unlikely that further attempts to seek protection by the police would make any difference.

[19] The PRRA Officer's reasons indicate that he considered the country condition documents outlining the problems in Pakistan. The PRRA Officer acknowledged the evidence of continuing problems of sectarian violence and corruption in Pakistan. However, relying particularly on the United Kingdom Home Office's Country Information and Guidance report, he noted that the objective documentary evidence also indicated that Pakistan had taken actual steps to deal with these issues and provide security to Shias. The PRRA Officer also observed the steps taken by the state to resolve those issues, including specialized training focussing on human rights and anti-corruption for police officers and the avenues available to seek restitution for any wrongdoings, including the Citizens-Police liaisons Committees or receiving assistance from the courts.

[20] The PRRA Officer also relied on the conflicting evidence regarding the third phone call received by Mr. Cheema, as well as the insufficient evidence regarding the identity of the callers and why Mr. Cheema could not approach the authorities again if he required assistance.

[21] Given the conflicting objective documentary evidence on the availability of state protection, the insufficient evidence regarding the third phone call and the fact that the police had accepted Mr. Cheema's complaint and forwarded it to higher authorities, it was open to the PRRA Officer to find that Mr. Cheema had failed to rebut the presumption of state protection.

[22] While Mr. Cheema may disagree with the PRRA Officer's assessment of the evidence, it is not the role of this Court to reweigh the evidence before the PRRA Officer and to draw a different conclusion.

[23] Accordingly, the Court is satisfied that the PRRA Officer's decision that Mr. Cheema failed to rebut the presumption of state protection is reasonable and that it "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir* at para 47).

### III. Conclusion

[24] This application for judicial review will be dismissed. The parties are in agreement that there is no serious question of general importance to be certified.



**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed and no question of general importance is certified.

"Sylvie E. Roussel"

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Judge

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

**DOCKET:** IMM-680-16

**STYLE OF CAUSE:** AHMED BIN SOHAIL CHEEMA v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** DECEMBER 20, 2016

**JUDGMENT AND REASONS:** ROUSSEL J.

**DATED:** DECEMBER 30, 2016

**APPEARANCES:**

Raisa Sharipova FOR THE APPLICANT

Amy King FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Raisa Sharipova FOR THE APPLICANT  
Barrister and Solicitor  
Toronto, Ontario

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of  
Canada  
Toronto, Ontario