

Federal Court



Cour fédérale

Date: 20230315

Docket: IMM-7619-21

Citation: 2023 FC 343

Ottawa, Ontario, March 15, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

RAMESH PANJATSARAM

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Ramesh Panjatsaram (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 RPD found that the Applicant was not a Convention refugee or a person in need of protection, within the scope of section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant is a citizen of India. He is a farmer, living in a rural community. He fears persecution and harm from a politician who wants to take his farmland which adjoins land owned by the politician where a beer factory has been built.

[3] The RPD dismissed the Applicant's claim on the grounds that his evidence was not credible. In his appeal to the RAD, the Applicant sought to introduce new evidence and requested an oral hearing.

[4] The RAD rejected the admission of new evidence, on the grounds that the documents tendered by the Applicant were available before his hearing at the RPD and accordingly, did not meet the requirements of subsection 110(4) of the Act for an oral hearing of the appeal.

[5] The Applicant now argues that the RAD made unreasonable findings about the location and ownership of the land. He also submits that the RAD failed to take into account his vulnerabilities as an uneducated and unsophisticated person from a rural background. This argument is presented in the name of fairness.

[6] The Respondent argues that the decision shows no reviewable error and that the Applicant received a fair hearing.

[7] The first matter for consideration is the applicable standard of review.

[8] Any issue of procedural fairness is reviewable on the standard of correctness; see the decision in *Canada (Minister of Citizenship and Immigration) v. Khosa*, [2009] 1 S.C.R. 339 (S.C.C.).

[9] The merits of the decision are reviewable on the standard of reasonableness; see the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.).

[10] 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.

[11] The RAD made its decision upon a review of the record and without an oral hearing. Although the Applicant had requested an oral hearing, that manner of proceeding was not available to him once the RAD rejected the documents that were submitted as new evidence.

[12] The RAD addressed the issue of an alleged breach of natural justice. It noted that the RPD did not accept that the Applicant was a vulnerable person, due to his lack of formal education and his occupation as a farmer.

[13] The RAD found no error in the conclusion of the RPD and found, itself, that natural justice was not breached.

[14] I acknowledge the Applicant's limited education. I note that both the RPD and the RAD took this into account. In my opinion, there was no breach of procedural fairness before the RAD.

[15] At the same time, the Applicant carried the onus of finding and submitting the evidence in support of his claim. His ownership of the land or proprietary rights in the land is central to his claim that the owner of the brewery is the agent of persecution.

[16] On the basis of the evidence submitted, I am satisfied that the RAD's conclusions are reasonable and meet the applicable legal test.

[17] There is no basis for judicial intervention and the application for judicial review will be dismissed. There is no question for certification.

JUDGMENT in IMM-7619-21

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-7619-21

STYLE OF CAUSE: RAMESH PANJATSARAM v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: NOVEMBER 21, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: March 15, 2023

APPEARANCES:

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