

Federal Court



Cour fédérale

Date: 20230517

Docket: IMM-4585-22

Citation: 2023 FC 692

Ottawa, Ontario, May 17, 2023

PRESENT: Madam Justice Walker

BETWEEN:

**HINA TAQI
KISA ZEHRA**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants, Ms. Taqi (Principal Applicant) and her adult daughter, are citizens of Pakistan. They seek judicial review of a decision by a senior immigration officer dated March 16, 2022 rejecting their Pre-Removal Risk Assessment (PRRA) application. The Applicants alleged in their PRRA application the same risk of persecution and harm in Pakistan previously assessed and rejected by the Refugee Protection Division (RPD) and Refugee Appeal Division (RAD). The officer concluded that the Applicants' new evidence did not overcome the

negative findings of the RPD and RAD and, therefore, the Applicants had failed to demonstrate their stated risk of persecution, torture or serious harm in Pakistan pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*).

[2] For the reasons that follow, the application will be dismissed.

I. Background and Decision under review

[3] The Applicants allege a fear of persecution, discrimination, serious harm and death in Pakistan on the basis of their Shia faith.

[4] The Applicants entered Canada on January 29, 2017 with the Principal Applicant's three other children. The family made refugee claims on March 20, 2017 based on a fear of religious persecution in Pakistan. One of the Principal Applicant's sons, S.H., was a well-known Nauha Khawan (reciter of religious poems) who had received threatening comments via social media and telephone. While the RPD found S.H.'s allegation that he had been the subject of a targeted shooting not credible, the panel concluded that he had established a serious possibility of persecution as a Convention refugee pursuant to section 96 of the *IRPA* and granted his request for refugee protection. The RPD and the RAD rejected the refugee claims of the four remaining family members, including the Applicants in this proceeding. The RPD determined that they were not credible with respect to the material elements of their claims. Further, there was no persuasive evidence that they had received threats against their lives in Pakistan because of their Shia faith or that they would face harm because of their relationship with S.H. On appeal, the RAD confirmed the RPD's decision.

[5] The Applicants submitted their PRRA application on June 7, 2021. The two remaining family members are not party to this application for judicial review. The Applicants provided new evidence in support of their PRRA application, including four affidavits from individuals in Pakistan (a religious scholar; the Principal Applicant's brother; the Applicants' neighbour; and a family friend) and two country condition reports (reports from Human Rights Watch and the UK Home Office). The Applicants argued that the new evidence established that (1) they are well known in Pakistan as active Shia adherents and are at risk in the country due to their familial association with S.H. and (2) they face a heightened risk of persecution in Pakistan as prominent Shias based on the current country condition evidence.

[6] In the decision under review, the officer stated that the Applicants were asserting the same risk previously assessed by the RPD. As a result, the officer assessed the PRRA application on the basis of the new evidence to determine whether conditions in Pakistan had changed sufficiently such the findings of the RPD and RAD had been superseded.

[7] The officer assessed the four affidavits before them and ascribed each affidavit little weight. The affidavits did not contain specific examples of direct or personal risks to the Applicants, identify who may be looking for them, the dates and frequency of any searches, or reasons for which the particular affiant believes the Applicants' lives remain at risk. The officer reiterated the RPD's finding that there was no persuasive evidence that the Applicants would face harm in Pakistan because of their relationship with S.H.

[8] The officer then turned to the country condition evidence and the Applicants' submission that the RPD accepted the risks to the Shia population presented by ongoing sectarian violence, "especially those individuals who are considered 'prominent Shias'". The officer noted the RPD's finding that there was no persuasive evidence that the Applicants had received threats or would face harm in Pakistan because of their Shia faith or their relationship with S.H. The officer gave the country condition reports submitted by the Applicants some weight due to the nature of the information they provided and the reliability of their respective sources. However, the officer found that the reports indicate that the prevalence of violence in Pakistan towards members of the Shia sect of Islam is at a similar, if not lower, level than that existing in 2018 when the RPD assessed the Applicants' risk. The officer stated that, despite the existence of significant human rights issues in Pakistan, the Applicants had not provided objective evidence connecting them to these potential risks, nor had they demonstrated that they had been targeted by the government or that they have any involvement with politics in the country.

[9] The officer concluded that the Applicants had submitted insufficient new evidence to overcome the findings of the RPD and RAD regarding the Applicants' risk of persecution or risk of death, torture or serious harm in Pakistan within the meaning of sections 96 and 97 of the IRPA.

II. Analysis

[10] The merits of the Officer's PRRA decision are subject to review by the Court for reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 23; *Balogh v Canada (Citizenship and Immigration)*, 2022 FC 447 at paras 20-21).

[11] I have considered the Applicants' oral and written arguments, their PRRA submissions and new evidence, and the officer's decision. Despite the clear and able arguments of counsel, I find that the Applicants have not demonstrated a reviewable error in the officer's decision that warrants the Court's intervention.

[12] I agree with the Applicants that the officer first characterized the risk alleged in the PRRA application as that of a risk of persecution due to their faith and did not specify their renewed assertion of risk as close family members of S.H. However, the officer assessed the four new affidavits, each of which were intended to substantiate the Applicants' risk notwithstanding S.H.'s absence from the country. The officer's failure to note this facet of the Applicants' submissions in their introductory statement is not a significant omission as it did not substantively affect the officer's consideration of their new evidence.

[13] The Applicants submit that they have demonstrated their risk as family members of S.H. through the submission of the affidavit evidence from four individuals who continue to reside in Pakistan. They argue that the officer unreasonably assessed the four affidavits by discounting them and faulting the affidavits for what they do not say rather than reading them for the facts they do relate (*Sitnikova v Canada (Citizenship and Immigration)*, 2016 FC 464 at paras 22-23).

[14] I do not find the Applicants' arguments persuasive. The officer did not engage in a selective reading of the affidavits, nor did the officer unreasonably focus on information that could have been included in the affidavits.

[15] Two of the four affidavits are premised on the alleged attempted shooting of S.H. but contain no new evidence substantiating the shooting. The RPD's conclusion that the Applicants had not credibly established this incident undermines the factual basis of these affidavits. All four of the affidavits refer to threats against and searches for the Applicants only in general terms, each affiant commenting on the need for the Principal Applicant to flee Pakistan to save her life and those of her children. The officer's statement that the affidavits fail to provide details or specifics of any continued searches for the Applicants or threats made due to S.H.'s profile as a prominent Nauha Khawan reasonably reflects the substance of the affidavits. In fact, it is fair to say that the affidavits contain no information other than that highlighted by the officer.

[16] I find that it was open to the officer to conclude that the Applicants' new affidavit evidence was insufficient to overcome the findings of the RPD and RAD. This is not a case in which the officer erred in rejecting evidence because of what it did not say (*Waseem v Canada (Citizenship and Immigration)*, 2021 FC 1422 at paras 12-15).

[17] The Applicants also submit that, in their review of the new country condition evidence, the officer ignored their background as members of S.H.'s family and the fact that they would be returning to the same place in Pakistan where S.H. was targeted and where people have been looking for them.

[18] I do not agree. It is clear in the decision that the officer was aware of the familial relationship and its relevance to the Applicants' PRRA application. As noted above, the officer referred to the RPD's acceptance of the fact that the Shia population in Pakistan is affected by

ongoing sectarian violence, particularly those who are considered ‘prominent Shias’. The officer emphasized that the RPD did not find that all Shias in Pakistan are at risk. S.H. received refugee protection due to his public profile and significant media following, not solely because of his Shia faith. In addition, there was no persuasive evidence before the RPD that the Applicants were subject to risk or harm in Pakistan due to their relationship with S.H. The lack of detail in the affidavit evidence and the fact that the new country condition evidence established no increased general risk to the Shia population in Pakistan reasonably resulted in the officer’s rejection of the Applicants’ PRRA application. The Applicants’ insistence on their heightened risks due to S.H.’s prominence asks the Court to reweigh the new evidence before the officer and to question the evidentiary conclusions of the RPD. This is not the proper role of the Court in judicial review (*Ogbonna v Canada (Citizenship and Immigration)*, 2023 FC 234 at para 13).

[19] Finally, the Applicants submit that the officer’s statement that the Applicants’ new evidence did not overcome the RPD’s previous findings was in essence an adverse credibility finding that required the officer to convene a hearing.

[20] Again, I do not agree with the Applicants. In my opinion, the officer made no credibility findings in the decision (*Canga v Canada (Citizenship and Immigration)*, 2020 FC 749 at para 28). The officer concluded that the new evidence submitted was insufficient to establish that conditions in Pakistan had changed such that the findings of the RPD and RAD had been superseded. I acknowledge that the prior panels’ conclusions consisted in part of negative credibility findings but the officer’s confirmation of the panels’ conclusions was not in itself a new credibility finding arising in the course of their analysis of the new PRRA evidence.

III. Conclusion

[21] I find that the PRRA decision is justified in light of the Applicants' new evidence and submissions before the officer. It follows that I will dismiss this application for judicial review.

[22] No question for certification was proposed by the parties and none arises in this case.

JUDGMENT IN IMM-4585-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

"Elizabeth Walker"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4585-22

STYLE OF CAUSE: HINA TAQI, KISA ZEHRA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: APRIL 27, 2023

JUDGMENT AND REASONS: WALKER J.

DATED: MAY 17, 2023

APPEARANCES:

Khatidja Moloo-Alam FOR THE APPLICANTS

Kevin Doyle FOR THE RESPONDENT

SOLICITORS OF RECORD:

Green and Spiegel LLP FOR THE APPLICANTS
Barristers and Solicitors
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario