

Federal Court



Cour fédérale

**Date: 20231016**

**Docket: IMM-2711-22**

**Citation: 2023 FC 1375**

**Ottawa, Ontario, October 16, 2023**

**PRESENT: The Honourable Mr. Justice Ahmed**

**BETWEEN:**

**ALI HASSAN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Ali Hassan, seeks judicial review of a decision of the Refugee Appeal Division (“RAD”) dated February 24, 2022, confirming the determination of the Refugee Protection Division (“RPD”) that the Applicant is neither a Convention refugee nor a person in need of protection, pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (“IRPA”).

[2] The RAD upheld the RPD's refusal of the refugee claim on the basis that the Applicant has a viable internal flight alternative ("IFA") in Islamabad, Pakistan.

[3] The Applicant submits that the RAD overlooked and ignored central evidence related to the viability of the IFA in the Applicant's circumstances, rendering the decision unreasonable.

[4] For the reasons that follow, I find that the RAD's decision is reasonable. This application for judicial review is dismissed.

## **II. Facts**

### **A. *The Applicant***

[5] The Applicant is a 20-year-old citizen of Pakistan. He identifies as Shia Muslim.

[6] The Applicant resided in Wazirabad with his parents and five sisters, and attended a private school in Wazirabad called Punjab College. The Applicant claims that his father, Azmat Ullah (Mr. "Ullah") is a businessman, philanthropist, and renowned member of the Shia community in Wazirabad.

[7] The Applicant claims that in January 2019, his father received a phone call from a person claiming to be a member of the Lashkar-e-Jhangvi ("LeJ"), a Sunni extremist group in Pakistan. The caller allegedly demanded extortion funds in the amount of 5,000,000 Rupees. When Mr. Ullah informed the caller that he did not have the funds, the caller allegedly threatened to kidnap

and kill his son, the Applicant, if he did not pay the funds within a week, and warned Mr. Ullah against contacting the police. Mr. Ullah and the Applicant's mother reported the incident to the police. The Station House Officer ("SHO") allegedly advised them to take precautions for their safety and informed them that they would investigate the matter.

[8] The Applicant claims that before the one-week deadline elapsed, Mr. Ullah received another phone call. The caller allegedly called Mr. Ullah names and informed him that he and his family would be punished for contacting the police. Mr. Ullah allegedly approached the police again, informing the SHO that the caller threatened to harm him and his family and requesting that the SHO register a First Instance Report ("FIR") against the culprits. The SHO allegedly refused this request.

[9] The Applicant claims that as the only son in his family, he was responsible for leaving the home for certain activities and his sisters did not bear this responsibility. He claims that due to this, his parents were particularly afraid that he would be exposed to the LeJ. The Applicant's sisters were also allegedly escorted to and from their school by a neighbour.

[10] The Applicant alleges that on January 27, 2019, Mr. Ullah was returning home from his business when two individuals stopped him at gunpoint, dragged him from the car, and physically assaulted him. The individuals warned him that if he did not pay the extortion money in the following five days, they would shoot him and his family. When Mr. Ullah returned home, the Applicant and his family decided against reporting the incident to the police, given that they had not helped before.

[11] On February 16, 2019, the Applicant, his father, and a security guard his father had hired were driving home from the Applicant's dentist appointment when they heard gunshots. One of the gunshots allegedly hit the car's bumper. The assailants disappeared. The Applicant claims that Mr. Ullah immediately contacted the police, who took the details of the occurrence and informed Mr. Ullah that they would follow up with him the next day about their investigation. The Applicant alleges that on the same night, Mr. Ullah received another phone call, informing him that the gunshots had merely been a warning and if the extortion demand was not met, the next gunshots would kill the Applicant.

[12] The Applicant claims that the police made no dedicated efforts to pursue the assailants. He claims that the day following the gunshots, he and his family travelled to Gujranwala to stay with the Applicant's uncle. Mr. Ullah allegedly contacted a smuggler to arrange for the Applicant to travel to Canada for his safety. The smuggler allegedly arranged for the Applicant to travel to Canada as part of a baseball tournament.

[13] The Applicant alleges that in March 2019, two armed individuals had inquired about his and his family's whereabouts. Mr. Ullah relocated the family to his cousin's home in Rawalpindi, where they still reside and where the Applicant resided until he left Pakistan.

[14] The Applicant was issued a temporary resident visa on June 2, 2019, and travelled to Canada on June 28, 2019, at the age of 16. Given that he was a minor at the time, the Applicant's father arranged for a family member living in Toronto to act as the Applicant's

guardian and provide him with shelter. The Applicant submitted a claim for refugee protection in October 2019, alleging fear of the LeJ.

B. *RPD Decision*

[15] In a decision dated September 22, 2021, the RPD refused the Applicant's claim on the basis that he has a viable IFA in Islamabad.

[16] At the outset, the RPD considered the evidence and testimony with regards to the Applicant's identity as a Shia Muslim. The RPD found that the Applicant is an "ordinary young Shia," but that there is no evidence to suggest that he or his father have the profile of Shias who are targeted in Pakistan.

[17] The RPD then raised several credibility concerns with the Applicant's claims. First, the RPD found that the Applicant's responses regarding the circumstances of his arrival in Canada to be evasive. Although the Applicant claimed that he arrived with several other boys who were on the baseball team at his private school and stayed in a hotel with these students and the coach, he testified that he did not have contact with him after arriving in Canada and was unable to identify any of the other boys or the coach.

[18] Second, the RPD found that the Applicant's evidence did not support the allegation that his father is a prominent businessman or high-profile Shia philanthropist. The RPD accepted that the Applicant and his family are Shia, but found that the Applicant's claim regarding his father's profile lacks credibility.

[19] Third, the RPD considered the Applicant's evidence and testimony regarding the LeJ and the threats against him and his family. The RPD found that on the basis of this information, while the Applicant's father may have been a victim of extortion, there is no evidence to demonstrate that he was being extorted by members of the LeJ. For these reasons, the RPD found that the Applicant failed to establish a well-founded fear of persecution by the LeJ.

[20] Turning to the proposed IFA, the RPD found that the Applicant has a viable IFA in Islamabad. The test to determine a viable IFA requires that: 1) there is no serious possibility of persecution or risk of harm in the IFA, and 2) it is reasonable in the Applicant's circumstances to relocate to the IFA (*Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706). The second prong of the test places a high evidentiary burden on the Applicant to demonstrate that relocation to the IFA would be unreasonable (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1367).

[21] At the first prong of the IFA test, the RPD assessed the objective evidence to find that the LeJ, though operating in different parts of the country, does not have dominance everywhere in Pakistan; that Islamabad does not appear to be stronghold of the LeJ; that there is no evidence to suggest that a Shia individual would be targeted there, even as someone without a high profile; and that the evidence does not demonstrate that the LeJ has capacity beyond indiscriminate "mass casualty" attacks against a community or the specific targeting of high-profile persons, rather than targeted attacks against low-profile individuals located in areas that are far removed from areas that are more often affected by such violence.

[22] The RPD also refused the Applicant's submission that the LeJ could use social media to track the Applicant in the IFA, finding no documentary evidence to support the finding that extremist groups use social media to locate individuals in Pakistan. The RPD noted that evidence demonstrating that an extremist group uses social media to espouse hateful ideology does not mean that the same means are used to locate individuals throughout the country.

[23] Considering this information, and the lack of evidence to demonstrate that the Applicant's father is a high-profile Shia or that his future activities within the Shia community would constitute the type of profile to put him at risk, the RPD found that the Applicant did not establish that he would face a serious possibility of harm in Islamabad at the hands of the LeJ.

[24] At the second prong of the IFA test, the RPD noted that the Applicant did not explain why relocation to the proposed IFA would be unreasonable in his circumstances. The RPD also noted that Islamabad is a large, multi-ethnic city; the Applicant speaks Urdu, Punjabi and some English, all of which are spoken in Islamabad; the Applicant has experience relocating to a new place, given his relocation to Canada; the Applicant has 10 years of education; and the Applicant has had some work experience since arriving in Canada.

[25] The RPD found no evidence to suggest that the issues allegedly posed by the LeJ extend beyond the Applicant's local community in Wazirabad, and found that Shia Muslims openly practice their faith across the country, many of them living safely in major cities and town. For these reasons, the RPD found that the Applicant failed to meet the high burden to demonstrate

that relocation to the proposed IFA would be unreasonable. The RPD therefore refused the Applicant's claim for refugee protection.

C. *Decision under Review*

[26] In a decision dated February 24, 2022, the RAD upheld the RPD's determination and found that the Applicant is neither a Convention refugee nor a person in need of protection. The RAD found the determinative issue to be the availability of the IFA in Islamabad.

[27] On appeal, the Applicant submitted that the RPD failed to acknowledge that Shia Muslims are targeted throughout Pakistan by extremist groups such as the LeJ; that the Applicant was personally targeted on the basis of his Shia faith and activities; and that his family has continued to receive threats after relocating to Rawalpindi for their safety. The Applicant further submitted that the LeJ could use computer technology to locate him and that the RPD erred in finding that the LeJ did not have a national network with which they can track and target individuals across Pakistan.

[28] The RAD referenced the National Documentation Package ("NDP") regarding the situation for Shia Muslims in Pakistan and their persecution at the hands of Sunni extremist groups. The RAD found the evidence to demonstrate that although Shia Muslims face threats and targeted attacks from extremist groups such as the LeJ, who regard Shias as non-believers, the targeting of Shias is not consistent throughout the country and such violence is considered to be less prevalent in Islamabad. The RAD also found that Shia Muslims compose 10 to 15 percent of Pakistan's population, who live across the country in urban centres such as the



proposed IFA, and that sectarian violence has affected a relatively small percentage of this population in recent years. On the basis of this evidence, the RAD found that the Applicant did not establish, on a balance of probabilities, that he would face more than a mere possibility of risk at the hands of the LeJ in Islamabad.

[29] The RAD found that none of the objective NDP evidence cited by the Applicant contradicts or undermines the RPD's finding that the Applicant would not be personally targeted given his low profile, nor does it demonstrate that the LeJ or other extremist groups would specifically target low profile individuals. The RAD referenced NDP evidence stating that high profile Shias face a moderate risk of violence, whereas most Shias face a low risk of violence, which varies depending on location and community. The RAD found that although the Applicant's father may have had a sufficiently high profile as a prominent Shia businessman in Wazirabad, thereby attracting the attention of the LeJ, there is no evidence to suggest that the Applicant himself carries a high profile such that he would be at risk in Islamabad.

[30] Regarding the LeJ's ability to use technology to locate the Applicant, the RAD agreed with the RPD's finding that there is a lack of documentary evidence to establish that extremist groups use social media to locate individuals in Pakistan. The RAD noted that the Federal Court has found it reasonable to conclude that a claimant could keep information about his location private on social media and that this is not akin to living as a fugitive, citing *Rizwan v Canada (Citizenship and Immigration)*, 2017 FC 456.

[31] Considering the second prong of the IFA test, namely whether relocation to the IFA would be unreasonable in the Applicant's circumstances, the RAD acknowledged the Applicant's evidence that his family was pursued by the LeJ after relocating to Rawalpindi. The RAD nonetheless found that the Applicant would be able to relocate to Islamabad with no more than a mere possibility that he would be persecuted by the LeJ, given the lack of evidence that he would not be able to visit his family or lead a normal life in Islamabad. The RAD therefore found that the Applicant did not establish that it would be objectively unreasonable for him to relocate to the proposed IFA.

[32] The RAD ultimately found that the Applicant has a viable IFA in Islamabad and that therefore, he is neither a Convention refugee nor a person in need of protection pursuant to sections 96 and 97 of *IRPA*.

### **III. Issue and Standard of Review**

[33] The sole issue in this application is whether the RAD's decision is reasonable.

[34] The standard of review is not disputed. The parties agree that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25) (“*Vavilov*”). I agree.

[35] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A reasonable

decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85).

Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[36] For a decision to be unreasonable, the applicant must establish that it contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100). While a decision-maker is not required to respond to every line of argument or mention every piece of evidence, a decision’s reasonableness may be called into question where the decision exhibits a “failure to meaningfully grapple with key issues or central arguments” (*Vavilov* at para 28).

#### **IV. Analysis**

[37] The Applicant submits that the RAD unreasonably overlooked central evidence regarding the viability of the IFA, rendering the decision unreasonable in its entirety. In my view, the Applicant has not raised a reviewable error in the RAD’s decision to warrant this Court’s intervention.

[38] The Applicant submits that the RAD overlooked key excerpts from the NDP that demonstrate that someone with the Applicant's profile does not have a viable IFA anywhere in Pakistan. The Applicant cites from a Response to Information Request ("RIR"), which states that the LeJ is connected to other Sunni extremist groups across Pakistan, creating a "loose network" that work together and "sometimes have the protection of the police." The Applicant contends that this evidence contradicts the RAD's finding that there is no objective evidence to demonstrate that the LeJ could track the Applicant in Islamabad. The Applicant submits that this reflects the RAD's failure to consider the totality of the evidence in arriving at its decision, rendering the decision unreasonable.

[39] The Applicant further submits that the RAD unreasonably rejected his submission that the LeJ could use social media to track him in the proposed IFA. The Applicant submits that it would be illogical to require evidence for this proposition when a majority of the world's population uses social media, which the Applicant claims is a generally accepted fact.

[40] The Respondent maintains that the RAD's decision is reasonable. The Respondent submits that the RAD's findings were clearly justified on the basis of the evidence, and that the Applicant's submission that the RAD failed to consider key NDP evidence is misplaced. The Respondent submits that the RAD is not obliged to refer to each document that was before it and that, in any event, the NDP evidence referenced by the Applicant describes general country conditions and does not undermine the RAD's central finding, which is that the Applicant provided insufficient evidence to establish that he has a profile of someone who would be personally targeted by the LeJ while living in Islamabad. The Respondent submits that the

Applicant is essentially seeking that this Court reweigh the evidence that was before the RAD, which is not this Court's role on reasonableness review.

[41] Contrary to the Applicant's submission that the RAD erred in finding that the LeJ would not reasonably use social media to track the Applicant, the Respondent notes that this is a mischaracterization of the RAD's finding. The Respondent notes that the RAD's finding was that there was insufficient evidence to demonstrate that the LeJ has the ability to use social media or the Internet to track a person's exact location. The Respondent contends that the Applicant merely disagrees with the outcome of the RAD's decision and has failed to raise a reviewable error in the decision.

[42] I agree with the Respondent. Regarding the RAD's assessment of the evidence, I do not find that the RIR extracted by the Applicant undermines the reasonableness of the RAD's findings or demonstrates that the RAD did not consider the totality of the evidence. The RAD made numerous reasonable findings that are responsive to the objective evidence, including that there are many Shia Muslims across Pakistan, who safely live in urban centers; that sectarian violence has affected a relatively small number of these individuals; that based on the statistics, the Applicant does not face more than a mere possibility of being attacked in Islamabad on the basis of his Shia identity; and that it is most often those Shia Muslims with high profiles that are personally targeted. The objective evidence cited by the Applicant does not contract the RAD's finding that it is unlikely for an extremist group like the LeJ to personally target an individual, particularly if that person does not have a high profile and is living in a city like Islamabad, where sectarian violence is less prevalent.

[43] It is trite law that the RAD is not required to refer to every piece of evidence or to explain how they dealt with it, so long as the decision, when reviewed holistically, is reflective of the evidentiary record (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at para 16). The Applicant has not raised an inconsistency between the evidence in the RIR and the evidence referenced by the RAD in its reasons, such that this Court can infer that the information in the RIR was ignored or overlooked (see *Khan v Canada (Citizenship and Immigration)*, 2022 FC 1800 at para 24). In my view, the RAD's decision establishes a rational line of analysis between the objective evidence and its ultimate findings (*Vavilov* at para 102).

[44] I also agree with the Respondent that the Applicant's submissions mischaracterize the RAD's finding regarding the LeJ's use of social media to track the Applicant. The Applicant submits that the RAD found that the LeJ would not use the Internet or social media to track individuals, and that this is unreasonable and illogical because most people use the Internet. However, the RAD's reasons do not doubt that most individuals use the Internet and that the LeJ may do so as well. The RAD clearly found that there is insufficient evidence before it to find that the LeJ uses the Internet or social media for the specific purposes of tracking individuals to their precise location, particularly if that individual has a relatively low profile and does not post their location on social media. It is open to the RAD to find that there is insufficient evidence before it to substantiate an element of the Applicant's claim and exercising this discretion is not a ground for this Court to intervene.

[45] For these reasons, I find that the Applicant has not raised a reviewable error in the RAD's decision, which bears the hallmarks of reasonableness as per *Vavilov*.

**V. Conclusion**

[46] This application for judicial review is dismissed. The RAD's decision is justified, transparent, and intelligible (*Vavilov* at para 99). No questions for certification were raised, and I agree that none arise.

**JUDGMENT in IMM-2711-22**

**THIS COURT'S JUDGMENT is that:**

1. This application for judicial review is dismissed.
2. There is no question to certify.

“Shirzad A.”

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Judge



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

**DOCKET:** IMM-2711-22

**STYLE OF CAUSE:** ALI HASSAN v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 26, 2023

**JUDGMENT AND REASONS:** AHMED J.

**DATED:** OCTOBER 16, 2023

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