

**Date: 20071207**

**Docket: IMM-456-07**

**Citation: 2007 FC 1285**

**Ottawa, Ontario, December 7, 2007**

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

**BETWEEN:**

**KESHOW PRASADNARAYAN SINGH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This is an application for judicial review pursuant to subsection 72 (1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act) of a decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board), dated January 3, 2007. The Board concluded that the applicant was neither a Convention refugee nor a person in need of protection, pursuant to sections 96 and 97 of the Act.

## **ISSUES**

[2] The present application raises only one issue: did the Board err in its determination that the applicant has an internal flight alternative?

[3] For the following reasons, the application for judicial review shall be dismissed.

## **FACTUAL BACKGROUND**

[4] The applicant is a citizen of India, born on March 29, 1962. He worked extensively in the hospitality and restaurant industry prior to coming to Canada. In 1987, the applicant obtained employment at the Mauraya Sheraton Hotel in Delhi, where he worked for 13 years. In August 2000, he got a job as the manager of a restaurant in Delhi. Between August 2000 and April 2006, he worked as a manager in two other reputable Delhi restaurants. The applicant travelled abroad while working as a manager in order to learn about the hospitality and restaurant industries on an international scale.

[5] The applicant was an active member of his union while working at the Sheraton Hotel. In September 2003, the applicant established an NGO called Shubh Pahal, a function of which was to work against police corruption. The applicant was the president of Shubh Pahal.

[6] In March 2006, the applicant wrote a letter to the Police Head Office, complaining about extortion attempts against a local restaurant owner by police officials of the Special Crimes Branch. On April 10, 2006, the applicant received a call from the Dabri Police Station Sub Inspector, asking

him to come into the station. Once there, the Sub Inspector questioned the applicant extensively about his organization. The complaint made to the Police Head Office was not mentioned.

[7] On April 15, 2006, the applicant received a telephone call from an unidentified caller, threatening the applicant if he did not withdraw his complaint. The applicant went to the local police station to report the phone call. The officer who received the report informed the applicant that there was nothing that could be done regarding an anonymous call.

[8] On April 24, 2006, the applicant was once again called, this time by the Inspector of the Dabri Police Station. The applicant met with him, and was questioned in depth about his organization and the complaint made in March.

[9] On April 29, 2006, the applicant was arrested while standing at a bus stop by three police officers of the Special Crimes Branch dressed in plain clothes. The officers forced him into a van, and brought him to the Raja Garden Police Station, where he was detained. There, the applicant was beaten and interrogated along with the vice president of Shubh Pahal. A plastic bag was put over his head to silence him, and he was accused of having dealings with criminals. The applicant and the vice president escaped from the police station by bribing the officer on night duty.

[10] Shortly after his arrival in Canada, the applicant was informed by his wife that the vice president died under mysterious circumstances.

## **DECISION UNDER REVIEW**

[11] The Board determined that the applicant is not a Convention refugee, because he does not have a well-founded fear of persecution in India, nor is the applicant a person in need of protection, because his removal to India would not subject him personally to a risk to his life, or to cruel and unusual treatment or punishment, or to a risk of torture.

[12] The Board concluded that the applicant has an internal flight alternative, in a city such as Goa or Calcutta, for the following reasons:

- a) On a balance of probabilities, the police were not looking for the applicant on a national or criminal basis, and there was no warrant for his arrest.
- b) The applicant would have no difficulty finding a job in Calcutta, since he was a successful restaurateur with a good employment record.
- c) There is no impediment to the applicant reaching Calcutta. India is a large country with no central registry system. According to the country conditions, there is no suggestion that the applicant's return to India would be a matter of interest to the police, and the police who were looking for him in Delhi would not be aware of his arrival. The country conditions do not provide information that the police keep track of individuals entering the country if they have no record of criminality and no arrest warrant issued. The Board preferred the evidence of the country conditions to the applicant's claim that those looking for him could find him anywhere in India.
- d) The Board found that the people who facilitated the applicant's departure would also not report his return to anyone who might want to harm him.

[13] Finally the Board did not accept counsel's submission that the applicant would likely continue his advocacy work upon his return to India since the applicant did not say for himself that it was his intention to do so. The Board found on a balance of probabilities, regardless of his intent, that he would probably not have problems if he started another organization, in light of the fact that he worked for years as an advocate without issue prior to the event which precipitated his departure.

## **ANALYSIS**

### ***Standard of Review***

[14] The standard of review applicable to a determination of the Board that an applicant has an internal flight alternative is patent unreasonableness (*Singh v. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 1283 (F.C.T.D.); *Rodriguez v. Canada (Minister of Citizenship and Immigration)*, [2005] F.C.J. No. 223 (QL), 2005 FC 153).

### ***Internal Flight Alternative***

[15] In *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 (C.A.), the Federal Court of Appeal determined that if the applicant is able to seek safe refuge within his country of origin, he is not a Convention refugee, nor a person in need of protection. Though the applicant may have a well-founded subjective fear of persecution, the existence of an internal flight alternative is sufficient grounds for the Board to refuse the claim for protection.

[16] The applicant submits that the Board was bound to consider that the death of the vice president of Shubh Pahal was a result of his participation in the organization for the purposes of the assessment of his internal flight alternative. I cannot accept this argument. The Board was not bound to consider the credibility of the applicant's story; as found in *Thirunavukkarasu*, above, the determination that an applicant has an internal flight alternative is sufficient ground to dispose of a claim. Further, the death of a person similarly situated to the applicant has no relevance to whether or not an internal flight alternative exists, and as such it is not required that this fact be considered in the analysis of the internal flight alternative. Finally, I agree with the respondent's submission that the submission that the vice president's death was linked to his activity with Shubh Pahal is purely speculative, and it is open to the Board to reject this version of events.

[17] The applicant further submits that the Board committed a reviewable error by not accepting that he would wish to continue his advocacy work upon his return to India. He submits that his long history of political activism make it reasonable to conclude that he would resume his work upon his return.

[18] A review of the record confirms that the applicant never indicated an affirmative desire to resume advocacy work; counsel for the applicant suggested it was likely that he would because of his profile. The Board stated that even if the claimant starts another organization in Calcutta, it must be satisfied that the applicant would on a balance of probabilities have problems and not just possibly have problems. It found that the evidence could not justify a conclusion to that effect.

[19] The respondent submits that counsel's submission does not constitute sufficient proof that the applicant would meet the threshold of undue hardship if he resumed his activities in Calcutta. In support of this submission, the respondent cites the Federal Court of Appeal in *Ranganathan v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 2118 (QL), which interpreted the holding in *Thirunavukkarasu*, above as establishing:

... a very high threshold for the unreasonableness test. It requires nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area. In addition, it requires actual and concrete evidence of such conditions. The absence of relatives in a safe place, whether taken alone or in conjunction with other factors, can only amount to such condition if it meets that threshold, that is to say if it establishes that, as a result, a claimant's life or safety would be jeopardized. This is in sharp contrast with undue hardship resulting from loss of employment, loss of status, reduction in quality of life, loss of aspirations, loss of beloved ones and frustration of one's wishes and expectations.

[20] I find that the Board did not err. It was open to the Board to make a finding of fact that the applicant would not be at risk if he resumed his activist work in a city such as Calcutta. This determination is supported by the evidence. I see no reasons to intervene in the Board's assessment of the two-pronged test in *Thirunavukkarasu*.

[21] No question was proposed for certification and none arises.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** the application for judicial review be dismissed. No question is certified.

“Michel Beaudry”

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Judge



**FEDERAL COURT**

**NAME OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-456-07

**STYLE OF CAUSE:** **KESHOW PRASADNARAYAN SINGH  
AND THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** December 5, 2007

**REASONS FOR JUDGMENT  
AND JUDGMENT:** Beaudry J.

**DATED:** December 7, 2007

**APPEARANCES:**

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