

CANADA / JUDGMENT

Pal v. Canada (Citizenship and Immigration)

2026 FC 596

COURT

Federal Court

DECIDED

5 May 2026

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Pal v. Canada (Citizenship and Immigration)

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Decision Content

Date: 20260505

Docket: IMM-1249-25

Citation: 2026 FC 596

Ottawa, Ontario, May 5, 2026

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

SURINDER PAL

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview [1] The Applicant, Surinder Pal [Applicant], seeks judicial review of a decision by the Refugee Protection Division of the Immigration and Refugee Board of Canada [RPD] finding that he was not a Convention Refugee or person in need of protection under sections 96 and 97 of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]. In its decision dated December 24, 2024, the RPD found that the Applicant's claim was manifestly unfounded [Decision].

[2] The Court's role on judicial review is to assess whether the decision being challenged is justified, transparent and intelligible in light of the facts and law that constrain the decision-maker and based on the arguments presented to them. For the reasons that follow, the application for judicial review is dismissed. The Applicant has not demonstrated that the Decision is unreasonable.

II. Background and Decision Under Review [3] The Applicant is a citizen of India. In his refugee claim, the Applicant claimed that he was being persecuted because of his organization and activism against the BJP Party, against drugs, and in support of the farmer's protests. He alleged that a man named SB attacked and threatened him repeatedly and was complicit in his arrest and beating by the police and the raiding of his store. The Applicant states that this behaviour was due to his membership of a Scheduled Caste and his work against the BJP Party.

[4] In a decision dated December 24, 2024, the RPD found that the Applicant did not establish that he was a Convention refugee or person in need of protection and concluded that his claim was manifestly unfounded pursuant to section 107.1 of the IRPA.

[5] By way of summary, the RPD's Decision considered the Applicant's basis of claim form [BOC], testimony at the hearing, and documentary evidence submitted, and found that the determinative issue was credibility. The RPD accepted the Applicant's allegation that he belongs to a Scheduled Caste group in India and recognized that members of scheduled castes in India face discrimination on many fronts. The RPD underlined that the onus was on the Applicant to demonstrate on a balance of probabilities that his caste caused the alleged persecution.

[6] The RPD found, however, that the Applicant's allegations in his claim lay with his political opinions as well as his refusal to cooperate with a BJP leader in drug trafficking. The RPD considered the evidence submitted and determined that the Applicant's caste status may have caused SB to suppress him further, and that the analysis would be focused primarily on the Applicant's political opinions and opposition to the BJP Party and SB.

[7] In considering the entirety of the evidence, the RPD identified multiple inconsistencies and contradictions throughout the documents and the Applicant's narrative and testimony. These issues concerned all facets of the Applicant's claim, from the dates and chronology of

events to the names of actors involved, from the medical treatment received after he was assaulted to the nature of the Applicant's employment in India. When asked about these inconsistencies at the hearing, the Applicant was unable to provide a reasonable explanation. The RPD also drew negative credibility findings with respect to the Applicant's central allegations and found that they had not been established on a balance of probabilities.

- [8] The Applicant's evidence was also rejected by the RPD. Some documents that were submitted to support the Applicant's claim were given no weight based on the Applicant's inconsistent testimony. For others, the RPD concluded that the affidavits submitted were fabricated and fraudulent and explained the basis of this conclusion in the Decision. The RPD also noted inconsistencies in the Applicant's testimony and irregularities on the face of the documents. The RPD had identified its concerns during the hearing, and the Applicant provided testimony to address them. Post-hearing, the Applicant submitted what he described as the "original documents". The RPD further noted that these documents were not clearly originals, and appeared to be scanned versions, that they did not match those discussed during the hearing, and appeared to have been doctored to address the panel's concerns identified during the hearing. The RPD provided reasons why the documents were found to be fraudulent and were rejected.
- [9] The RPD concluded that the presumption of truthful sworn testimony had been rebutted, that the Applicant's testimony was false, and that the documents submitted in evidence were fraudulent. The RPD cited that the IRPA requires the panel to make a finding that a claim is manifestly unfounded if it is of the opinion that the claim is clearly fraudulent. The RPD highlighted that it came to this finding based on credibility concerns relating to the BOC, specifically the fraudulent documents submitted in support of the Applicant's allegations. The Applicant's claim was rejected. The RPD's Decision is the subject of this application.

III. Issues and Standard of Review [10] The issue on judicial review is whether the RPD's Decision was unreasonable.

- [11] The parties submit that the standard of review with respect to the merits of the Decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [Vavilov]). I agree that reasonableness is the applicable standard of review.
- [12] On judicial review, the Court must consider whether a decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (Vavilov at para 99). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (Vavilov at para 90).
- [13] When a reviewing court applies the standard of reasonableness, the question is not whether other alternative interpretations or conclusions would have been possible. Rather, it is whether the interpretation chosen by the decision-maker passes the muster of reasonableness, even though other interpretations or conclusions might have been possible (*Tong v Canada (Public Safety and Emergency Preparedness)*, 2023 FC 625 at para 32). A

decision may be unreasonable if the decision maker misapprehended the evidence before it (Vavilov at paras 125-126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (Vavilov at para 100).

IV. Analysis [14] As a preliminary matter, the Court must deal with issues that arose at the hearing and objections that were raised by the Respondent, including a new allegation of incompetence of counsel who represented the Applicant at the RPD, raised for the first time in the Applicant's Reply Memorandum of Fact and Law [Reply MOA].

- [15] The Decision under review relates to the RPD's finding that the Applicant's claim was manifestly unfounded. In his Application for Leave and Judicial Review [ALJR], the Applicant raised a number of grounds to challenge the Decision. One of them was that "the tribunal's analysis of credibility is woefully inadequate. The wrong test has been applied for a manifestly unfounded claim."
- [16] However, this ground was not further elaborated in the Applicant's Memorandum of argument [MOA] or in the Reply MOA, both of which focused on a perceived error in the application of the two-prong internal flight alternative [IFA] test. The Applicant submitted in his MOA that the RPD erred in finding that any proposed IFA location would be viable, as the Applicant would be discriminated there as a result of his Scheduled Caste as he belongs to the Dalit caste. The Applicant also made submissions on the discrimination which Dalits suffer in India. The Applicant did not challenge the RPD's conclusion that his asylum claim was manifestly unfounded, or any of the underlying credibility findings which had led to that result.
- [17] The Respondent's MOA argued that the Decision was reasonable, with arguments and references to the record, elaborating on and supporting the RPD's finding that the claim was manifestly unfounded. This included its assessment of the Applicant's credibility. Moreover, the Respondent underlined that the Applicant's submissions on an IFA were unfounded and misleading, as the issue of an IFA was not proposed by the RPD.
- [18] In their Further MOA, the Respondent objected to the inclusion of allegations of incompetence of former counsel in the Reply MOA, stating that this was a new allegation not previously raised and was improper. Furthermore, the Respondent submitted that the Applicant did not comply with the Court's the Consolidated Practice Guidelines for Citizenship, Immigration, and Refugee Protection Proceedings (June 24, 2022) [Practice Guidelines]. Because no information was provided that former counsel had been notified in accordance with the Practice Guidelines, this was sufficient for the Court to dismiss this allegation (citing *Melgar Morales v Canada* (Citizenship and Immigration), 2025 FC 40 at paras 8, 10, 13).

- [19] At the outset of the hearing, counsel for the Applicant recognized that his oral submissions had to be limited to what had been included in his written materials. He also confirmed that he was not advancing allegations of incompetence of counsel who represented the Applicant before the RPD. Despite the limitations that the Applicant's counsel identified, he asked to make new submissions on the issue of the RPD's findings on the Applicant's credibility. He grounded this submission on the basis that this issue was plead in the ALJR.
- [20] However, and as I explained at the hearing, only arguments included in a party's memoranda can be advanced in oral argument. This is a well-established principle as set out in the jurisprudence.
- [21] In *Tehranimotamed v Canada (Citizenship and Immigration)*, 2024 FC 548 [Tehranimotamed] at paragraphs 11-12, an applicant sought to make submissions at the hearing that were not advanced in their memorandum of fact and law, or in their reply memorandum. Justice Zinn reiterated the established jurisprudence that only arguments included in a party's memorandum can be advanced in oral argument (citing *Kilback v Canada*, 2023 FCA 96 at para 41).
- [22] At paragraph 12 of *Tehranimotamed*, Justice Zinn also cited *Bedeir v Canada (Citizenship and Immigration)*, 2016 FC 594, where Justice Roy explained the rationale behind this basic rule of pleadings at paragraph 16:

The applicants bring to the Court arguments on their judicial review application. It must be that only two arguments can be considered by this Court in view of the fact that these judicial review applications are authorized by a judge of this Court on the basis of the argument put forward in the initial memorandum of fact and law. The jurisdiction of the Court is derived from the leave application which was granted (*Mahabir v Canada (Minister of Employment and Immigration)* (1991), 1991 CanLII 8283 (FCA), [1992] 1 FC 133 (CA)). Indeed, rule 70 of the Federal Courts Rules [SOR/98-106] requires that the memorandum of fact and law contain a statement of the points in issue and a concise statement of submissions. As found again recently by the Federal Court of Appeal in *Bridgen v Correctional Service of Canada*, 2014 FCA 237, 465 NR 73, only what is in a party's memorandum can be advanced in oral argument. That is especially so in matters where leave is granted.

(Emphasis added)

- [23] As the Respondent rightfully pointed out, there are some limited circumstances in which the Court may consider new arguments. This, however, is not one of those circumstances (citing *Zhou v Canada (Citizenship and Immigration)*, 2018 FC 182 at para 6).
- [24] In this case, the Applicant had multiple opportunities to present arguments challenging the reasonableness of the RPD's credibility finding, which was the central and determinative issue in the Decision on review, through a MOA and a Reply MOA. He did not file a Further MOA after leave was granted, which he was also entitled to do.

- [25] The Applicant did not challenge in any written memoranda the RPD's credibility findings, the finding that the evidence submitted to the RPD was fraudulent, and the resulting conclusion that the Applicant's claim was manifestly unfounded. I also underline that leave was granted based on his MOA and Reply MOA. The Applicant cannot now attempt to challenge these findings for the first time at the hearing, taking both the Respondent and the Court by surprise.
- [26] Given the above, and further to my ruling at the hearing, I will not consider the Applicant's attempts to challenge the merits of the RPD's assessment and conclusions on the Applicant's credibility and the finding that the claim was manifestly unfounded.
- [27] I am therefore left to consider whether the RPD's Decision was reasonable in concluding that, given that the Applicant's claim was manifestly unfounded, that he did not face any risk of persecution based solely on his membership in a Scheduled Caste.
- [28] The Applicant states that he advanced an allegation of persecution on the basis of his caste to the RPD, referring to his narrative and to the National Documentation Package [NDP]. The Applicant submits that the RPD erred by limiting its analysis to the allegations relating to his political activities, to BJP, and to SB and failing to take seriously the fact that he belongs to a Scheduled Caste and that he had been a victim of discrimination and past persecution.
- [29] The Respondent correctly identified that the Applicant himself admitted in his Reply MOA that he did not present any evidence to the RPD with respect to allegations of persecution related to his caste, including the references to the NDP that he cited in the Reply MOA and at the hearing. The Respondent submits that it is not for the RPD to comb through every part of the NDP in the hope of finding passages that may support the Applicant's claim (citing *Jean-Baptiste v Canada (Citizenship and Immigration)*, 2018 FC 285 at para 19). Finally, the Respondent submits that the NDP passages that were presented to the Court did not clearly contradict the RPD's conclusions.
- [30] I agree with the Respondent's submissions.
- [31] The Applicant's narrative did not set out the extent of persecution relating to his caste as it was characterized at the hearing. The Applicant also admitted in his Reply MOA that the allegation of persecution based on his caste was not advanced before the RPD. As such, I cannot fault the RPD for not considering an argument that was not advanced or developed before it.
- [32] In the Decision, the RPD acknowledged the difficulties and discrimination registered castes may face in India but concluded that the Applicant's Dalit caste had not affected his basic rights in a way that would constitute persecution. The case law also supports the RPD's conclusion, as discrimination does not necessarily amount to persecution. Measures of discrimination must lead to consequences of a substantially prejudicial nature for the person concerned, including a serious restriction on one's right to earn a livelihood or access to normally available education facilities. For example, the case law has described

that persecution does not result from the ability to work in the field of one's choosing. Rather, it flows from one's inability to work at all (*El Assadi Kamal v Canada (Citizenship and Immigration)*, 2018 FC 543 at para 17, citing *Xie v Canada (Minister of Employment and Immigration)*, [1994] FCJ No 286 (QL) at para 12). In the Applicant's case, it was not contested that he was able to work inside and outside India and had access to medical care, legal advice, international travel and housing.

- [33] The remaining references to the general country conditions are not sufficient to raise a reviewable error. As Justice Boswell wrote in *Sharawi v Canada (Citizenship and Immigration)*, 2019 FC 74 [Sharawi], "the Applicant cannot rely solely on country condition evidence to establish his claim" (at para 28, other citations omitted). A claimant must establish a link between general documentary evidence and their specific circumstances and how those problems have impacted or will impact them (Sharawi at paras 29, 31).
- [34] The RPD's conclusions that the Applicant did not link his claim of persecution to his Scheduled Caste is grounded in the record before it.

V. Conclusion [35] The Decision meets the hallmarks of reasonableness, in that the reasons for rejecting the Applicant's claim for refugee protection are intelligible, transparent and justified with regard to the evidence and arguments that were before the RPD. The application for judicial review is therefore dismissed.

- [36] The parties do not propose any question for certification, and I agree that in these circumstances, none arise.
- [37] Finally, the style of cause will be amended to correctly name the Respondent as "Minister of Citizenship and Immigration" instead of "Minister of Immigration, Refugees and Citizenship".

JUDGMENT in IMM-1249-25

THIS COURT'S JUDGMENT is that :

- 1.The application for judicial review is dismissed.
- 2.There is no question for certification.
- 3.The style of cause is amended to name the respondent as "Minister of Citizenship and Immigration."

"Phuong T.V. Ngo"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

IMM-1249-25

STYLE OF CAUSE:

SURINDER PAL v THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP

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JUDGMENT AND REASONS:

NGO J.

DATED:

MAY 5, 2026

APPEARANCES:

Stewart Istvanffy

For The Applicant

Nadine Saade

For The RESPONDENT

SOLICITORS OF RECORD:

Étude Légale Stewart Istvanffy

Barristers and Solicitors

Montréal (Québec)

For The Applicant

Attorney General of Canada

Montréal (Québec)

For The RESPONDENT

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