

CANADA / JUDGMENT

# Phuntsok v. Canada (Citizenship and Immigration)

2024 FC 2074

COURT

Federal Court

DECIDED

19 December 2024

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Phuntsok v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions  
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20241219 Docket: IMM-9178-23 Citation: 2024 FC 2074 Toronto, Ontario, December 19, 2024  
PRESENT: The Honourable Mr. Justice Ahmed BETWEEN: THUTOP PHUNTSOK Applicant and  
THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS  
(Delivered orally from the bench on December 19, 2024, and subject to stylistic, editorial, and  
syntax edits, as well as reference to jurisprudence and legal citations)

- [1] The Applicant seeks judicial review of a decision of a Senior Immigration Officer (the “Officer”) refusing his application for a Pre-Removal Risk Assessment (“PRRA”) pursuant to sections 96 and 97 of the Immigration and Refugee Protection Act, SC 2001, c 27 (“IRPA”).
- [2] The Applicant is a citizen of India. He is ethnically Tibetan. The Applicant and his family arrived in Toronto in 2007. For several years, the Applicant lived as a permanent resident in Canada.
- [3] In 2021, the Applicant was convicted of discharging a firearm with intent contrary to subsection 244(1) of the Criminal Code, RSC 1985, c C-46. As a result, he lost his permanent resident status and was issued a deportation order.
- [4] In June 2022, the Applicant submitted a PRRA application based on the risk he would face as a Tibetan person with an intellectual disability in India.
- [5] In November 2022, the Applicant’s PRRA application was refused. The Officer determined that the Applicant’s evidence of risk concerned Tibetan people without status in India. Since the Applicant is an Indian citizen, this evidence was not applicable to his situation. The Applicant departed Canada in February 2024.
- [6] The two issues in this application are whether this application is moot and whether the Officer’s decision is reasonable.

- [7] The Respondent is correct that this application is moot. As rightly noted by the Applicant, the Court holds the discretion to nonetheless hear this application – discretion that this Court recently exercised in *Nshimyumuremyi v Canada (Citizenship and Immigration)*, 2024 FC 1352 (“*Nshimyumuremyi*”). However, the facts of the case at hand are distinguishable. Here, the Applicant was deported before the Court issued a production order. Unlike *Nshimyumuremyi*, the Applicant’s deportation order was not made “[d]espite [a] production order,” which indicates that “the Court [was] inclined to grant leave” (*Nshimyumuremyi* at paras 45, 44). I therefore find that an exercise of the Court’s discretion is not warranted. This application is dismissed on this basis alone.
- [8] Furthermore, reviewing the decision, I find the Officer’s decision to be reasonable.
- [9] The Officer reasonably determined that the Applicant brought insufficient evidence of risk. The evidence in the Applicant’s PRRA application concerned risk to Tibetan refugees without status in India. The Officer found that this risk was “due to the greater part of the refugees...not being granted Indian citizenship.” “[A]s the [A]pplicant is an Indian citizen,” I find no error in the Officer’s determination that this evidence “does not apply.”
- [10] The Applicant submits that the Officer attempted to “disguis[e] an unexplained (or “veiled”) credibility finding” (*Magonza v Canada (Citizenship and Immigration)*, 2019 FC 14 at para 35). According to the Applicant, the Officer undertook a selective review of the country condition evidence and required the Applicant to bring “direct evidence” that he has actually “been harmed.”
- [11] I disagree. The Officer acknowledged the Applicant’s materials about discrimination against Tibetan people in India, including issues with freedom of movement; the ability to work, study, and own property; and the persistent sense that Tibetan people are “foreigners.” However, this evidence was about Tibetan people without status. The Applicant’s PRRA was refused because the evidence was not applicable to his circumstances as an Indian citizen, not because the Applicant failed to bring direct evidence of actual harm.
- [12] With respect to intellectual disability, I agree with the Respondent that the Applicant did not bring substantive allegations of risk on this basis.
- [13] This application for judicial review is dismissed. There is no question for certification. JUDGMENT in IMM-9178-23 THIS COURT’S JUDGMENT is that: This application for judicial review is dismissed. There is no question to certify. “Shirzad A.” Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-9178-23 STYLE OF CAUSE: THUTOP PHUNTSOK v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: Toronto, Ontario DATE OF HEARING: December 19, 2024 JUDGMENT and reasons: AHMED J. DATED: December 19, 2024 APPEARANCES: Vakkas Bilsin For The Applicant Mariam Shanouda For The Respondent SOLICITORS OF RECORD: Lewis & Associates LLP Barristers and Solicitors Toronto, Ontario For The Applicant Attorney General of Canada Toronto, Ontario For The Respondent

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Prepared on 26 October 2026 · Esheria