

**Date: 20051216**

**Docket: IMM-9762-04**

**Citation: 2005 FC 1704**

**OTTAWA, Ontario, this 16<sup>th</sup> day of December, 2005**

**PRESENT: THE HONOURABLE PAUL U.C. ROULEAU**

**BETWEEN:**

**BEENA CHRISTOPHER**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This is an application for judicial review of a decision by the Refugee Protection Division of the Immigration and Refugee Board (the "Board") dated December 20, 2004, in which the Board found that the applicant was not a Convention refugee or a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act, 2001 S.C. c. 27* (the IRPA). The Board found that the applicant, Beena Christopher, lacked credibility. The Board also noted that the applicant has failed to disprove the presumption of state protection in Pakistan and further found that the applicant has a valid Internal Flight Alternative ("IFA") in Karachi or Youngsonabad.

[2] The applicant, Beena Christopher, is a 44 year old citizen of Pakistan. The applicant claims refugee protection on religious grounds, as she is a Christian Evangelist who fears persecution in the form of risk to life or risk of cruel and unusual treatment or punishment, if she were to return to Pakistan.

[3] The applicant alleges she has received threats in Lahore, Pakistan due to her Christian faith. She claims she healed a woman from a Muslim family in October 2003, and was subsequently targeted by the husband of the healed woman. The applicant claims that the woman's husband was a Muslim fundamentalist.

[4] The applicant alleges that the family of the healed woman broke into her home carrying pistols; that she was threatened by the woman's husband, who told her to stop practising and preaching Christianity and to stay away from his wife.

[5] After the incident, the applicant returned to her native village of Youngsonabad. She noted in her Personal Information Form ("PIF") that Youngsonabad is a Christian village, and she felt safe there.

[6] The applicant applied to come to Canada in October 2003 to donate a kidney to her brother who had suffered a complete kidney failure in November 2002. She applied for a visa, together with her husband and daughter, and the visa was refused. She re-applied, just for herself, and received a visa. She left Pakistan in April, 2004.

[7] Prior to leaving, the applicant claims she returned to her home in Lahore, accompanied by her husband, to pick up some belongings; that she was once again confronted by the healed woman's husband, who threatened her life, along with that of her husband and daughter. The applicant alleges shots were fired into the air, and, as a result, the police were called. She alleges the police stated they would not interfere in religious matters and refused to file a report or complaint.

[8] The applicant left Pakistan on April 16, 2004 and visited her sister in Qatar before arriving in Canada on April 26, 2004. On November 9, 2004, the Board gave oral reasons for dismissing the applicant's claim for refugee protection. The Board's decision is contested in the present application.

[9] The Board found that the applicant was not a Convention refugee or a person in need of protection.

[10] The Board found that the applicant was not a credible witness, in that there was a significant omission from her PIF. In oral testimony, the applicant alleged that she and her daughter were threatened with kidnapping; in her PIF, there is no mention of the threat of kidnapping. The Board asked the applicant if she considered the threat of kidnapping a significant event, and she answered in the affirmative. The Board noted that the omission of the kidnapping threat from her PIF, as a significant event, impugns the applicant's credibility.

[11] With respect to subjective fear and credibility, the Board found that the applicant does not have a significant profile to be considered a Christian activist. The Board noted that the applicant does not have a congregation or a church and found that the applicant does not have the profile she alleges. The Board further found that the alleged profile further impugns the applicant's credibility.

[12] The Board then turned its attention to the issue of state protection. The Board found that the applicant had not rebutted the presumption of state protection set out by the Supreme Court of Canada in *Canada (Attorney General) v. Ward* [1993] 2 S.C.R. 689. The Board also noted that the Federal Court of Appeal's decision in *Canada (Minister of Employment and Immigration) v. Villafranca* (1992), 99 D.L.R. (4<sup>th</sup>) 334 (FCA) sets out the idea that protection need not be perfect, but needs to make serious efforts to protect its citizens.

[13] The Board cited the United States Department of State Report which states that, at the highest levels, the government of Pakistan promotes religious tolerance and condemns and bans sectarian extremist groups. The Board then noted that the

applicant testified she had not approached any authorities as she was afraid of the police. The Board concluded that the government of Pakistan is making a serious effort to protect the Christian minority.

[14] Finally, the Board considered the possibility of an IFA in either Karachi or Youngsonabad. The Board noted that the applicant testified that, in all the time she lived in Youngsonabad with her husband and daughter, there were no incidents. The Board that there are no issues of persecution or safety in Youngsonabad and found that the applicant has an IFA in her native village. The Board appears to base the IFA in Karachi on the statement made by the Bishop of Karachi, Bishop Daniel, who praised the government for being co-operative with and protective of Christian churches during services.

[15] The applicant alleges that the Board made its decision in a perverse and capricious manner, without due regard to the evidence before the Board.

[16] The applicant retained new counsel before the hearing of the present application and subsequently challenged both the state protection and IFA findings. The applicant also submitted a question, with respect to state protection, for the court to consider for certification.

[17] At the outset, I will note that the certified question need not be considered, as the present case will not turn on the issue of state protection.

[18] The applicant submits a number of arguments with respect to the Board's credibility findings and claims the Board ignored documentary evidence with respect to the state protection finding. She did not raise any arguments that purport to contest the IFA finding until she retained her new counsel.

[19] I am of the opinion that the application must be dismissed, as neither the applicant, nor her new counsel, have put forth evidence that the IFA finding is unreasonable, in either the oral or the written submissions. I will not deal with the Board's findings on credibility and state protection at this time, except to say that credibility is the heartland of the Board's jurisdiction (*R.K.L. v. Canada (Minister of Citizenship and Immigration)* [2003] F.C.J. No. 162, at paras 7-8) and the Board's conduct in assessing the documentary evidence was reasonable within the *Ward* and *Villafranca* tests, *supra*. At this point, the Court will only assess the IFA finding.

[20] After a full analysis, even if the credibility and state protection findings could not stand, the applicant has failed to deal with the Board's third finding: the IFA.

[21] To illustrate that the IFA finding is reasonable, I will briefly examine the finding under the *Rasaratnam* criteria. In *Rasaratnam v. Canada (Minister of Employment and Immigration)* [1992] 1 F.C. 706 (FCA). Mahoney J. noted that the Board must identify the location of the IFA and set out the following test for a valid IFA:

a. the Board must be satisfied on a balance of probabilities that there is no serious possibility of the applicant being persecuted in the part of the country to which it finds an IFA exists; and

b. conditions in the part of the country where the IFA is found to exist must be such that it would not be unreasonable, in all the circumstances, for the applicant to seek refuge there.

[22] There are essentially three criteria for a valid IFA finding: first the location of the IFA must be stated. In the present case, the Board gave two IFA locations: Karachi and Youngsonabad. The Board therefore satisfied the requirement for stating the location of the IFA.

[23] The second requirement is to determine whether there is a serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists. The Board noted that the applicant feels safe in Youngsonabad and had lived there without incident for approximately one year, prior to coming to Canada. The Board also noted that, at the time of the hearing, the applicant's husband and child were living in Youngsonabad. The applicant herself testified that she felt safe in Youngsonabad, and noted that her native village was a Christian village, where she has not been persecuted. I am convinced that the Board satisfied the obligation of finding that no serious possibility of persecution exists in Youngsonabad.

[24] The third requirement is that the conditions in the part of the country where the IFA is found to exist must be such that it would not be unreasonable, in all the circumstances, for the claimant to seek refuge there. As the Board noted, the applicant testified that she felt safe in Youngsonabad. I am of the opinion that the applicant's admission that she felt safe in Youngsonabad, along with the lack of persecution in Youngsonabad, gives the applicant a valid IFA in Youngsonabad.

[25] The Board's finding of an IFA in Youngsonabad was reasonable and disposes of the present application.

## JUDGMENT

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

"Paul U.C. Rouleau"

JUDGE

**FEDERAL COURT**

**NAME OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-9762-04

**STYLE OF CAUSE:** BEENA CHRISTOPHER v. THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** November 29, 2005

**REASONS FOR JUDGMENT:** ROULEAU D.J.

**DATED:** December 16, 2005

**APPEARANCES:**

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