

1104876 [2011] RRTA 730 (23 August 2011)

DECISION RECORD

RRT CASE NUMBER:	1104876
DIAC REFERENCE(S):	CLF2010/108160
COUNTRY OF REFERENCE:	India
TRIBUNAL MEMBER:	Charlie Powles
DATE:	23 August 2011
PLACE OF DECISION:	Melbourne
DECISION:	The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa (the visa) under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of India, arrived in Australia on [date deleted under s.431(2) of the *Migration Act 1958* as this information may identify the applicant] September 2007 and applied to the Department of Immigration and Citizenship (the Department) for the visa [in] August 2010. The delegate decided to refuse to grant the visa [in] May 2011 and notified the applicant of the decision.
3. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant applied to the Tribunal [in] May 2011 for review of the delegate's decision.
5. The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

RELEVANT LAW

6. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
7. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

9. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:
owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

10. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1, *Applicant S v MIMA* (2004) 217 CLR 387 and *Appellant S395/2002 v MIMA* (2003) 216 CLR 473.
11. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
14. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors.
15. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
16. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
17. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if

stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence. The expression ‘the protection of that country’ in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.

18. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future. The focus of the Convention definition is not upon the protection that the country of nationality might be able to provide in some particular region, but upon a more general notion of protection by that country: *Randhawa v MILGEA* (1994) 52 FCR 437 per Black CJ at 440-1.
19. Depending upon the circumstances of the particular case, it may be reasonable for a person to relocate in the country of nationality or former habitual residence to a region where, objectively, there is no appreciable risk of the occurrence of the feared persecution. Thus, a person will be excluded from refugee status if under all the circumstances it would be reasonable, in the sense of “practicable”, to expect him or her to seek refuge in another part of the same country. What is “reasonable” in this sense must depend upon the particular circumstances of the applicant and the impact upon that person of relocation within his or her country. However, whether relocation is reasonable is not to be judged by considering whether the quality of life in the place of relocation meets the basic norms of civil, political and socio-economic rights. The Convention is concerned with persecution in the defined sense, and not with living conditions in a broader sense: *SZATV v MIAC* [2007] HCA 40 and *SZFDV v MIAC* [2007] HCA 41, per Gummow, Hayne & Crennan JJ, Callinan J agreeing.

CLAIMS AND EVIDENCE

20. The Tribunal has before it the Department’s files relating to the applicant’s first application for a student visa (CLF2007/007602) and his application for a protection visa (CLF2010/108160). The Tribunal also has had regard to the material referred to in the delegate’s decision, and other material available to it from a range of sources.

Protection visa application

Application forms

21. The applicant has provided the following information in support of his application with his protection visa application forms.
22. The applicant is a [age deleted: s.431(2)] man, born in India on [date deleted: s.431(2)]. He is an Indian citizen and the holder of an Indian passport, issued [in] August 2006 and expiring [in] August 2016.
23. He is single and speaks, reads and writes English, Hindi and Punjabi. His parents continue to reside in India and he has one sister who is currently living in Canada. Since arriving in Australia he [studied] at [college deleted: s.431(2)] up until 2009.

24. He completed 12 years education in India before coming to Australia to study.
25. In answer to the questions on his protection visa application forms about his reasons for claiming protection, the applicant states:

I came in Australia in 2007. I took interest in different religious faiths which is called "DERA SACHA SAUDA". I started reading articles and news about this new faith on Internet, I found this new faith is the Real Religion. I accepted this faith and started practising. Situation is not good in India for the follower of this faith. People of Sikh religion and the Hindu don't like this new faith. They are totally against this new faith and give really hard time to followers.

If I go there with this new faith, my family, community and relatives will not like me. I have fear that people will hate me and can plan to kill me. That's why I don't want to go there.

26. In response to the question "What do you fear might happen to you if you go back to that country?" the applicant states:

I have change my faith to "DERA SACHA SAUDA".

In India, specially in Punjab and Haryana people don't like this faith. My family, community and relatives are deadly against this new faith.

In past, many people have lost their life due to accepting this new faith. I have feared that my family, relatives and community members can plan to finish me.

I have life threat due to accepting this new faith that I don't want to stop practising this new faith. I love this faith. "DERA SACHA SAUDA".

27. In response to the question "Who do you think may harm/mistreat you if you go back?" the applicant states:

It happens on past a Sikh religion people don't like this new faith and followers. They had given very hard time to its followers and killed and many of the followers. Wherever they get chance to destroy them, they do, lots of news around about the atrocities on "DERA SACHA SAUDA" followers.

28. In response to the question "Why do you think this will happen to you if you go back?" the applicant states:

I have change my faith so that people my previous religion will not accept me in any other religion. Even my parents, family and relatives will not accept me in new religion.

They will do everything to stop me to follow this new religion. They can even plan to take my life because they want to keep their false honours life.

29. In response to the question "Do you think the authorities of that country can and will protect you if you go back? If not, why not?" the applicant states:

It has been that government and officials are not capable to stop the atrocities upon followers of this new faith.

Due to political reason, current government is not interested to go against "Sikh religion". "Sikh religion" is against this new faith and followers of "Sikh religion" are doing atrocities and crime against this new faith.

30. Provided with the protection visa application forms were:
- a. a copy of the identity page of the applicant's current Indian passport;
 - b. a copy of a Health Services Australia tax invoice in relation to a medical examination undertaken by the applicant [in] July 2010;
 - c. a copy of a Australian Federal Police certificate for the applicant dated [in] July 2010;
 - d. several online media reports in relation to the followers of the Dera Sasha Sauda (DSS) in India; and
 - e. a four-page document typed in English entitled "Principles of Dera Sacha Sauda".
31. According to Departmental records, the applicant was granted a Subclass 573 Student visa [in] August 2007. He arrived in Australia [in] September 2007 and was granted a further Subclass 573 Student visa [in] September 2007. He was then granted a Subclass 572 Student visa [in] November 2009, which expired [in] March 2010.
32. The applicant was interviewed by the delegate in relation to his protection visa application [in] November 2010, with the assistance of an accredited Hindi interpreter. The Tribunal has listened to the audio recording of the interview.

Departmental decision

33. The delegate refused the application [in] May 2011. The delegate had a number of credibility concerns in relation to the claims made by the applicant. She found the responses he provided at interview to questions about his claimed religion were brief and lacking in detail, given that he claimed to have read a great deal about the religion and to attend services on both days of each weekend and pray every morning. Accordingly, the delegate did not accept that the applicant was a follower of his claimed religion.
34. The delegate further found it would be reasonable to expect the applicant to be able to relocate to another part of India where he would not face a risk of harm even if he were a follower of his claimed religion. The delegate also found that if the applicant were facing a risk of harm on the basis of being a member of his claimed religion he would be able to obtain effective protection from the Indian government and security forces.
35. Finally, the delegate found that the applicants delay in lodging a protection visa application until almost 3 years after his arrival in Australia and five months after his most recently held substantive visa had expired raised serious concerns about the credibility of his claims to fear persecution in India.

36. Accordingly, the delegate found she was not satisfied the applicant faces a real chance of serious harm if he were to return to India now or within the reasonably foreseeable future and so found that Australia did not owe the applicant protection obligations.

Application for review

37. The applicant lodged an application for review with the Tribunal [in] May 2011. In response to the question on the "Application for Review – R1" Tribunal form, "Do you need an interpreter?", the applicant ticked the answer "No". The applicant was represented in relation to the review by his registered migration agent, [name deleted: s.431(2)] (the representative).
38. The application for review was constituted to the presiding member [in] June 2011.
39. [On a further date in] June 2011, the Tribunal wrote to the visa applicant and informed him that it had considered the material before it, but was unable to make a favourable decision on this information alone. As a result, the Tribunal invited the applicant to appear before the Tribunal to give oral evidence and present arguments at the hearing scheduled [in] August 2011.

Tribunal hearing

40. The applicant appeared before the Tribunal [in] August 2011 to give evidence and present arguments. The applicant's representative also attended the hearing and provided to the Tribunal at the hearing a printout of an online media report from the Times of India dated 4 July 2010, titled "More than 1000 honour killings in India every year: Experts".
41. In response to questions from the Tribunal, the applicant gave the following evidence in support of his application for review at the hearing.
42. The applicant confirmed his full name, place and date of birth. He stated that he had been born and raised in the town of [Town 1], north of Ludhiana in the state of Punjab, India. He confirmed that his parents continue to live in [Town 1] and that he has one sister who is currently on a scholarship [studying] in Canada.
43. The applicant confirmed that he had come to Australia in September 2007. He stated that before then he had lived with his parents and his sister in [Town 1]. He stated that his sister did not travel to Canada until 2009 or 2010, after the applicant had come to Australia. He stated that his father had worked as a [teacher] at a government school.
44. He explained that after he arrived in Australia, he was under the guardianship of a distant relative because he had travelled to Australia before turning 18. He stated that after he turned 18 he stopped living with his distant relative and went to live by himself.
45. He confirmed that he had completed high school in India and came to Australia to [study]. He explained that after arriving in Australia and [studying] for three or four months, he changed his course to study a [Diploma]. He stated that he completed that Diploma in December 2009.
46. The applicant explained that he had originally intended to study a Master's Degree and other preliminary courses as part of a package. He stated that when he was granted his

subclass 573 student visa to come to Australia, it was a valid until [a date in] September 2011. He stated that when he decided to study [a Diploma] and not continue with the package of courses for which he had been granted a subclass 573 student visa, he had lodged an application for a subclass 572 student visa. He stated that he was never told that he had been granted a subclass 572 student visa and so had assumed that his subclass 573 student visa continued to be valid. He stated that it was only when he attempted to apply online for a skilled visa a few months after having completed his [Diploma] that he was told by the Department, through the agent who was assisting him with that application, that he had been granted a subclass 572 visa which had expired in March 2010 and that he was after that time an unlawful noncitizen.

47. The applicant stated that it was after he was told this that he decided to apply for a protection visa. He stated that he found out about the protection visa application process himself by researching online. He stated that he completed the protection visa application forms himself. He stated that when he attended the interview with the delegate, he had not requested an interpreter and that he was concerned that the quality of the interpreting during the interview with the delegate was poor. Otherwise, the applicant stated that the information he had provided with his protection visa applications and at the interview was correct and that there was nothing he wanted to change in relation to the information he had provided at the interview and with his application forms.
48. The applicant stated that he did not want to go back to India because he had issues with his parents about his religion. He stated that his parents had not kicked him out of home before he came to Australia but that they had not allowed him to join his religion. He stated that he had now come overseas, done some further education and stayed independently in another country, and he wanted to pursue that religion. He stated that he feared his parents might kill him because they knew that he had changed religion and also because he has a girlfriend. He stated that he feared harm at the hands of his parents, friends and relatives because his parents are Hindu and his friends are Sikh.
49. He stated that he had grown up as a Hindu but from what he had learnt about the protocols of the Hindu and Sikh religions he did not like. He stated that he had heard about the religion, the DSS from friends at his school when he was about [age deleted: s.431(2)]. He stated that his friends gave him some books about the DSS and he read more about them on the Internet. He stated that he was attracted to the DSS because they don't believe in superstitions and allow people to do whatever they like. He stated that he feels free as a follower of the DSS.
50. The Tribunal asked the applicant whether there were any restrictions on the conduct of followers of the DSS. The applicant stated there were no restrictions at all. He stated that in the Hindu and Sikh religions people cannot marry and the parents choose who they marry. He stated that under the DSS you can eat what you want at that under the Sikh and Hindu religions you have to be pure vegetarian. He stated that as a follower of the DSS, you do not have to go to temple you can pray any time. The Tribunal asked the applicant if there was anything a follower of the DSS was supposed to do. The applicant stated that as a follower of the DSS he felt free and comfortable.
51. The Tribunal asked the applicant if he had ever had any problems in India because he liked the DSS. The applicant stated that his parents had found books about the DSS in his bag two or three times and that they had slapped him and told him that if he kept

those books they would kick him out. He stated that sometimes friends would not talk with him because of his interest in DSS. He stated that now he was living independently in Australia he could do what he wanted.

52. The Tribunal asked the applicant how he presented himself as a follower of the DSS in Australia. The applicant stated that he didn't need to show anything and that there are no protocols as a follower of the DSS. The Tribunal asked the applicant if he ever met with the other followers of the DSS in Australia. The applicant stated that there were no formal meetings of the DSS in Australia but that once or twice a month, on a Sunday, he met in [town deleted: s.431(2)] with "elders" who were followers of the DSS to talk with them. He stated that he started doing this in 2008 but did not go often. He stated he would have a cup of coffee or tea with the "elders" and they would talk about what to do for the bright future of the religion.
53. The Tribunal asked the applicant if there was any formal process for becoming a follower of the DSS. The applicant stated there were no rituals and that he did not have to do anything in particular. The Tribunal asked the applicant what it was the elders told him needed to be done for the bright future of the religion. He stated that they said it was important to respect other religions and to recognise other people as human beings. He stated that he was told he must promote their religion, talking to others about the religion and why they should choose the DSS. He stated that he would talk with people at his workplace about the DSS. He stated that when people asked what his religion was he would tell them he was a follower of the DSS.
54. The Tribunal asked the applicant what he knew about the history of the DSS. The applicant stated that the main branch of the DSS was in Haryana. He stated that if he wanted to join the DSS he would have to go there. He stated that overseas he did not need to do that but that if he went to India he would have to attend appointments with the "promoter" of the DSS in Haryana. The Tribunal asked the applicant when the DSS was founded. The applicant stated he did not know. The Tribunal asked the applicant what the name of the first leader of the DSS was. After thinking for some time, the applicant replied "Ram Rahim". The Tribunal asked the applicant the name of the current leader of the DSS. The applicant replied "Baba Ram Rahim".
55. The Tribunal asked the applicant if there are any principles that a follower of the DSS is supposed to follow. The applicant stated that he was supposed to respect elders and other religions. He stated there were no other restrictions and that the DSS did not bind him in any other way. He stated that the DSS gave him the freedom to do something in his life. The Tribunal asked the applicant again if there were any principles guiding DSS followers. The applicant stated that he did not have to do wear any materials around his neck or wrist.
56. The Tribunal asked the applicant if he feared any harm in India for any reason other than his religion. The applicant stated he did not. He stated that he feared he would be kicked and slapped because of his religious beliefs. The Tribunal asked the applicant a second time whether he had any fears of harm other than because of his claimed conversion to the DSS. The applicant stated he did not.
57. The Tribunal asked the applicant whether he could go and live in another part of India away from his family. The applicant stated that no one knows him in other states and that his parents and friends could find him anywhere in India.

58. The Tribunal put to the applicant that information before it indicates that followers of the DSS are expected to abide by certain "principles", copies of which are freely available, including from the main DSS websites. The Tribunal noted that these principles included that the consumption of alcohol and other intoxicants is strictly prohibited and that being a vegetarian is a "cardinal rule" of DSS. The Tribunal noted that the applicant had stated earlier in the hearing that he was not restricted in what he ate and that there were no restrictions on followers of the DSS. The applicant stated that, according to his knowledge, there were no restrictions on the followers of DSS.
59. The Tribunal put to the applicant that the fact that he had repeatedly referred to wanting to be free of any restrictions and that when talking about his religious beliefs he had repeatedly referred to the restrictions of the Hindu and Sikh religions, it raised the question for the Tribunal as to whether he would want to abide by the principles of the DSS if he were to return to India and so whether he would in fact follow the DSS if he were to return to India. The applicant stated that while in Australia he has not been following any restrictions because he has not been told to do so by the "community" of DSS followers in Australia. He stated that he was not familiar with the principles.
60. The Tribunal also put to the applicant that the country information before it that indicated that while there is evidence of followers of DSS coming to harm in the Punjab, often as a result of riots and other disturbances, there was clear evidence that there were other DSS communities in different Indian states, including Rajasthan, Gujarat, Maharashtra, Delhi and Chandigarh. The Tribunal noted that there was little to no country information showing that followers of the DSS faced harm in those other states. The Tribunal put to the applicant why, as an able-bodied young man with a tertiary qualification, able to speak, read and write Hindi, Punjabi and English, he could not reasonably be expected to relocate to another state if he were to follow the DSS and be able to support himself in that other location. The Tribunal noted that the applicant had repeatedly stated at the hearing that he had been living independently and supporting himself in Australia. The applicant stated that his tertiary qualification in Australia would not be recognised in India and that he would have to obtain another higher education qualification. He stated he could only do so if he continued to be dependent on his parents.
61. The Tribunal also put to the applicant that the country information before it indicated that, while there is evidence of corruption and susceptibility to bribery in the Indian police force throughout India, there is also evidence of the Indian security forces taking steps to protect followers of the DSS in the Punjab from suffering harm at the hands of those opposed to their religion. The applicant responded that the Indian police, politicians and government are the worst in the world.
62. The Tribunal asked the applicant about his reference to having a girlfriend earlier in the hearing. The applicant stated that there was a girl who he knew when he was at school and that she is Sikh. He stated that his parents would not allow them to marry. He stated that he and his girlfriend were not married or engaged and that they sometimes talk on the telephone. The Tribunal asked the applicant if he feared harm as a result of his relationship with his girlfriend. The applicant stated it would only be if he tried to marry her. The Tribunal asked the applicant if he and his girlfriend could relocate to another part of India if they wanted to marry. The applicant stated that his girlfriend was dependent on her parents.

63. The representative made a number of submissions in support of the application. He submitted that the applicant was someone with a limited ability to express his religious beliefs. He submitted that people can still genuinely follow a belief without being able to express themselves. He also submitted that when the applicant was asked questions about and referred to "restrictions" on religious practice, the applicant would have understood that question to relate to whether the religion was "fundamentalist" and that this was why he had said there were no restrictions on followers of the DSS. He also submitted that the applicant could face "honour killing" in India at the hands of his parents. He also noted concerns about the standards of interpreting during the interview with the delegate.
64. The Tribunal asked the representative whether he had any questions he wished the Tribunal to ask the applicant. The representative stated that he did not.
65. The Tribunal asked the applicant if there was anything else he wished to say in support of his application. The applicant stated that he did not.
66. The Tribunal had discussed with the applicant during the hearing what evidence he was given by the Department of his ongoing visa status in Australia. In order to assess what information the applicant was provided about his ongoing visa status, the Tribunal requested that the applicant provide a full, certified copy of his Indian passport by Monday, [a date in] August 2011. The applicant and the representative agreed to do so.

Post-hearing submission

67. [On a date in] August 2011, the Tribunal received a letter from the representative in the following terms:

I refer to the RRT case number 1104876 which was heard by you on [date] August 2011 in room number 7 in the afternoon. I wish to thank you for your very kind and patient hearing of our matter. As directed by you, please find enclosed certified copies of all the pages of passport of my client [the applicant].

I would also like to make following further submissions in the matter for your kind consideration:

- 1) *The applicant is very young and lacks in-depth philosophical approach towards religions, but he certainly understands the moral values and teachings. He chose to follow DSS since he does not appreciate certain customs and traditional restrictions such as caste system and some very strict rituals; in spite of them being abolished by the legal system in India; which are followed by certain people from his religion even today. He is especially concerned about the safety of his childhood girlfriend [name] and himself since they are not allowed to get married with each other and are threatened with dire consequences. Honour killings are not very uncommon in India in case of such marriages.*
- 2) *[The applicant] has always been a vegetarian and has never tasted alcohol, so the restriction of DSS of not having alcohol and non vegetarian food is not a "restriction" for him, but more like a good moral teaching. He appreciates principles like recognising all members of the religion as "INSAAN" or human beings rather than stamping them as a person from a particular religion. DSS also*

does not believe in caste system which is a "RESTRICTION" according to him and therefore DSS gives him "freedom".

- 3) *[The applicant] believes that it is more important to follow good moral values of religions and teaching than to remember dates and events or names of people. Moreover, since he is not a very good orator and also not a preacher, he cannot express his views about the DSS religion very effectively. He embraced the religion because he was impressed by the moral values of the religion; especially 'not believing in caste system' and to respect people from other religions.*
- 4) *Due to his religious beliefs, [the applicant] has been threatened as well has been physically harmed on many occasions by his parents, other relatives and community members in India, but since he respects his parents and elders as per the teachings of his religion which is DSS, he did not file police complaints or take other actions. He lives in constant fear and his only way to avoid getting harmed and/or to get killed is to not to go back to India.*
- 5) *Even if he tries to relocate himself in some other part of India, it very easy for these people to locate him and his girlfriend and harm them or kill them in the name of honour killing. This fear of death is eminent and certain to [the applicant]. Though the police and the other authorities in India are protecting DSS members, [the applicant] and [name] shall be targeted by these people individually as per their threats.*

I therefore request you to kindly consider these aspects and grant a favourable decision in our case and oblige.

68. Enclosed with the letter was a full certified copy of the applicant's current Indian passport.

Country information

Dera Sacha Sauda

69. The DSS came into existence in 1948 at Sirsa, in present-day Haryana, then part of the undivided state of Punjab within India. The organisation was founded by Shehenshahji Mastana, a pious Sikh leader from Balochistan, with an eye to social reform and spiritual purification – among the Sikhs in particular, but also others in general. The organisation takes its name, sacha sauda, meaning 'true business', from the place where a 12-year-old Guru Nanak was believed to have fed the poor, with money given to him by his father to do business.¹
70. The website of the DSS² contains biographical information on the DSS founder Shehanshah Mastana Ji Maharaj, and on his successor, Pita Shah Satnam Singh Ji Maharaj, who took control of the DSS in 1960.³ An article published by *The Times of*

¹ Alig, Asif Anwar & Anwar, Abid 2007, 'Embers of a Sikh fire', *Himal South Asian*, October http://www.himalmag.com/2007/october_november/embers_of_a_sikh_fire.html – Accessed 9 October 2007

² <http://www.derasachasauda.in/>

³ Detailed Life Sketch Of Shehanshah Mastana Ji Maharaj' (undated), Dera Sacha Sauda website <http://www.derasachasauda.in/guruji1.html> – Accessed 20 March 2008

India on 18 May 2007 indicates that after taking control of the DSS in September 1990, current Guru Gurmit Ram Rahim Singh expanded its area of influence:

*With him at the helm of affairs, the number of dera followers grew. Their ranks were not limited only to places in Punjab and Haryana, but even to the bordering areas of Rajasthan, including Sriganganagar and Hanumangarh. In fact, the dera built ashrams (Naam Ghar) in Gujarat, Maharashtra, HP, Madhya Pradesh, Chhattisgarh, Delhi and Chandigarh.*⁴

71. An undated document accessed on the DSS website in January 2008 provides the following summary:

*The reciting of God's words (divulged by the perfect saint i.e. Sant Satguru) & obtaining salvation in return is the True Business or 'Sacha Sauda' Sacha Sauda Ashram Sirsa is an institution for spiritual emancipation and is not a new sect or religion. It aims at the union of soul with its creator, the Almighty. The organization is altogether unique since no gifts, alms or donations in cash or kind are accepted and has more than 20 million followers. The practical method of meditation is taught without any obligation for attaining salvation during this human life ('What is Dera Sacha Sauda?')*⁵

72. A document located on the DSS website in August 2011 provides a list of 15 principles for DSS followers to observe. These principles include non-violence, meditation, hard work, vegetarianism, charity, abstinence from alcohol, and the rejection of usury, the dowry system, and discrimination on the basis of caste.⁶
73. The DSS website provides a list of the 44 DSS *ashrams* in India.⁷ A glossary provided on this same website defines an *ashram* as follows: "spiritual centre or home; oftentimes the residence of a guru".⁸ Of the 44 *ashrams* listed, 19 are located in Haryana; nine in Rajasthan; five in Punjab; two in Chhattisgarh; and one each in Delhi, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Mumbai, Orissa and Uttar Pradesh. Of the 19 *ashrams* in Haryana, 12 are located in Sirsa.⁹ Sirsa is the town in which the DSS has its headquarters.¹⁰
74. A report from the BBC, published on 16 December 2009, states that DSS members comprise "a huge following of predominantly lower caste Hindus, Muslims and Sikhs across the states of Punjab, Haryana, Uttar Pradesh and Rajasthan".¹¹ Another BBC

⁴ 'Dera Sacha Sauda and Gurmeet Ram Rahim' 2007, *The Times of India*, 18 May

<http://timesofindia.indiatimes.com/articleshow/msid-2060431,prtpage-1.cms> – Accessed 14 December 2007

⁵ (Undated), Dera Sacha Sauda website <http://www.derasachasauda.in/index.html> – Accessed 14 January 2008

⁶ <http://derasachasauda.org/principles.html>

⁷ 'Dera Sacha Sauda Ashrams Across India' (undated), Dera Sacha Sauda website <http://derasachasauda.org/en/ashrams-list.html> – Accessed 28 July 2011

⁸ 'Glossary' (undated), Dera Sacha Sauda website <http://derasachasauda.org/en/component/content/article/4-general-cms/30-glossary.html> – Accessed 28 July 2011

⁹ 'Dera Sacha Sauda Ashrams Across India' (undated), Dera Sacha Sauda website <http://derasachasauda.org/en/ashrams-list.html> – Accessed 28 July 2011

¹⁰ 'Dera Sacha Sauda' (undated), Dera Sacha Sauda website; 'Dera incident: High alert in Haryana, Punjab; chaos on highway' 2008, *Press Trust of India*, 2 February; Swami, P. & Sethi, A. 2007, 'Politics, religion and resistance', *The Hindu*, 4 June; Khan, E. A. & Tripathi, A. 2007, 'Operation Jhootha Sauda', *Teelka*, 11 August

¹¹ 'Indian sect members vow to marry sex workers' 2009, *British Broadcasting Corporation*, 16 December http://news.bbc.co.uk/2/hi/south_asia/8416739.stm – Accessed 27 July 2011

report, published on 18 May 2007, states that DSS “has a strong presence in southern Punjab and its influence spreads across some 12,000 villages of Punjab as well as the states of Madhya Pradesh, Haryana and Rajasthan”.¹²

75. As noted earlier, the DSS website provides a list of 44 *ashrams* that the sect has across India. The DSS appears to have grown in the last ten years, as a *Frontline* report, published on 21 December 2002 refers to the sect having “36 branches in 11 States”. It is stated that the DSS had its headquarters at Sirsa in Haryana state, and that other states where it had a presence at that time included Rajasthan, Punjab, Gujarat, Chattisgarh, Madhya Pradesh and Uttar Pradesh.¹³ A *Himal Southasian* article, published in October 2007, also refers to the DSS having “36 local and urban branches in eleven states across India”.¹⁴
76. There is information available indicating that the DSS has a large following in India. The aforementioned *Himal Southasian* report refers to DSS “claims to have 15 million followers”.¹⁵ This report also states that the “numerical strength” of the DSS has given the sect “significant political clout, particularly in Punjab and Haryana”.¹⁶

Violence involving DSS in Punjab

77. There has been considerable tension between DSS followers and some Sikh groups in northern India, and these tensions have at times erupted into violent incidents. A number of reports published in the Indian press indicate that some active DSS followers have been targeted for harm in the period since February 2010.
78. In May 2011, it was reported that the police in Panchkula in Haryana state had received a letter from DSS management regarding a “suspected threat to the life of the Dera head”, Gurmeet Ram Rahim Singh, who was required to attend court hearings in relation to murder charges against him. The court subsequently allowed Gurmeet Ram Rahim Singh to attend the hearings by video-conference.¹⁷ Recent news reports indicate that the hearings are continuing.¹⁸
79. In March 2011, there was a clash between DSS followers and a Sikh group in Dhale Ke village in the Moga district of Punjab. The Sikhs reportedly attempted to disrupt a DSS religious event – a “naam charcha” or “congregation” – by playing an audiotape at high volume. After DSS followers complained about this to policemen, a duty magistrate asked that the tape be stopped. DSS followers alleged that, after the naam charcha programme concluded, “members of Ek Noor Khalsa Fauz, a Sikh religious body, blocked their way, brandishing unsheathed swords” The Sikh group reportedly refuted these allegations, and alleged that the DSS followers had resorted to stone pelting, and damaging the Sikh gurudwara. Despite police having been “deployed in strength in the village to avert any clash between the two sword-brandishing groups”, two people (of

¹² Singh, J. 2007, ‘What is behind Sikh protests?’, *British Broadcasting Corporation*, 18 May.

¹³ Rajalakshmi, T. K. 2002, ‘Godman under a cloud’, *Frontline*, 21 December

¹⁴ A. Anwar Alig & A. Anwar 2007, ‘Embers of a Sikh fire’, *Himal Southasian*, October.

¹⁵ A. Anwar Alig & A. Anwar 2007, ‘Embers of a Sikh fire’, *Himal Southasian*, October.

¹⁶ A. Anwar Alig & A. Anwar 2007, ‘Embers of a Sikh fire’, *Himal Southasian*, October

¹⁷ Nagarkoti, R. 2011, ‘Video-conferencing facility ready for Dera chief’s appearance’, *The Times of India*, 28 May

¹⁸ ‘Witness turns hostile in Chhatrapati murder case’ 2011, *Indian Express*, 28 July

unreported group allegiance) were seriously injured before a further deployment of police brought the situation under control.”¹⁹

80. Also in March 2011, a naam charcha in Bajidpur village in the Ferozepur district of Punjab, attended by more than 1000 DSS followers (also known as premis), attracted adverse attention from Sikh groups. *The Times of India* reported that:

*When members of various Sikh organizations learned about it, they, including women, reached Bajidpur village and tried to disturb the congregation, but were checked by senior police officers. The Sikh protesters then blocked Ferozepur-Moga GT Road to mark their protest against it. They reportedly also thrashed some premis and damaged a few vehicles which were taking the Dera followers to the congregation venue. Some premis reportedly received minor injuries during the scuffle, but timely intervention of police force contained the situation.*²⁰

81. In January 2011, an altercation between DSS followers and a group of “pro-hardline” Sikhs occurred in Bhikhi in the Mansa district of Punjab after the DSS followers objected to remarks made by the Sikhs about the DSS head. District authorities reportedly “managed to calm” the DSS followers; however the “pro-hardline” Sikh group clashed with the police.²¹

State protection for the DSS

82. A survey of news reports during the period indicates that police have acted to prevent clashes between DSS followers and Sikhs and to protect DSS members, and laid charges following the registration of complaints from DSS followers.
83. On 23 July 2011, it was reported that non-bailable warrants had been issued against Balwant Singh Nandgarh, a Sikh religious leader, after he failed to appear in a judicial court in Fatehabad district of Haryana regarding a case registered against him under Section 295A of the Indian Penal Code.²² The case had been registered following a complaint by a Dera Sacha Sauda supporter that Nandgarh had made “a fiery speech at a religious gathering”.²³ According to an earlier report, Nandgarh “claimed that he had been implicated in a false case by a follower of Dera Sacha Sauda sect”.²⁴
84. On 9 July 2011, it was reported from the Moga district of Punjab that a man had been arrested on charges relating to section 295A of the Indian Penal Code after a DSS

¹⁹ ‘Tension in village as Sikhs, dera men clash’ 2011, *The Times of India*, 7 March

http://articles.timesofindia.indiatimes.com/2011-03-07/india/28665459_1_dera-followers-naam-charcha-dera-programme – Accessed 10 March 2011

²⁰ ‘Followers hold congregation amid protest’ 2011, *The Times of India*, 7 March

http://articles.timesofindia.indiatimes.com/2011-03-07/india/28665719_1_naam-charcha-dera-followers-sikh-organizations – Accessed 10 March 2011

²¹ ‘Curfew continued in Punjab town after clashes between police and Sikhs’ 2011, *Punjab News Line*, 3 January

²² Section 295A of the Indian Penal Code relates to “[d]eliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs”: Government of India, *Indian Penal Code, 1860*, Act No. 45 of 1860

²³ ‘Nandgarh not to appear in Haryana court’ 2011, *Hindustan Times*, 23 July

²⁴ ‘Akal Takht excommunicates head of religious academy’ 2011, *The Press Trust of India Limited*, 22 July

follower filed a police complaint that “abusive language” had been written on a photo of the Dera chief and posted on the internet.²⁵

85. In May 2011, the court hearing cases against DSS chief Gurmeet Ram Rahim Singh in Panchkula in the state of Haryana exempted him from attending in person, after police made an application to the court to allow him to participate by video-conferencing. The police had held concerns that “there could arise a law and order problem in Panchkula as thousands of his followers were likely to reach Panchkula”, and had received a letter from DSS management noting a “suspected threat to the life of Dera head”.²⁶
86. A news article from March 2011 indicated that following an altercation between DSS followers and Sikhs in Dhale Ke village in the Moga district of Punjab, police were “deployed in strength” to the area to avert any violence between the groups.²⁷
87. Another news report from March 2011 stated that “heavy police protection” had been provided for a large DSS event in Bajidpur village in the Ferozepur district of Punjab. According to the article:

*The congregation, attended by more than 1,000 premis, was organized under a heavy police protection. When members of various Sikh organizations learned about it, they, including women, reached Bajidpur village and tried to disturb the congregation, but were checked by senior police officers. The Sikh protesters then blocked Ferozepur-Moga GT Road to mark their protest against it. They reportedly also thrashed some premis and damaged a few vehicles which were taking the DSS followers to the congregation venue. Some premis reportedly received minor injuries during the scuffle, but timely intervention of police force contained the situation.*²⁸

88. In February 2011, a prayer meeting conducted by the DSS head in Panchkula was held “amid tight security”. According to one report, the police presence was considerable:

With 15 battalions of Haryana and numerous women cops, around 40,000 police personnel were deployed by the Haryana Police.

*Panchkula SP Maneesh Chaudhary said the police force included three Deputy Superintendents of Police (DSP) rank officers and eight inspectors on the venue itself. Over hundred policemen were from Ambala district and the Haryana Armed Police along with presence of special commando units and anti-sabotage team.*²⁹

89. A January 2011 article in *The Hindu* indicated that police used force to prevent a clash between DSS followers and Sikhs in Bhikhi, a remote town in the Mansa district of Punjab, and subsequently arrested more than 50 followers of a “pro-hardline Sikh group” Reports indicate that the police had also “resorted to preventive detentions in

²⁵ ‘Man arrested for hurting sentiments of Dera followers’ 2011, *The Press Trust of India*, 9 July

²⁶ Nagarkoti, R. 2011, ‘Video-conferencing facility ready for Dera chief’s appearance’, *The Times of India*, 28 May

²⁷ Tension in village as Sikhs, dera men clash’ 2011, *The Times of India*, 7 March,

http://articles.timesofindia.indiatimes.com/2011-03-07/india/28665459_1_dera-followers-naam-charcha-dera-programme – Accessed 10 March 2011

²⁸ ‘Followers hold congregation amid protest’ 2011, *The Times of India*, 7 March

http://articles.timesofindia.indiatimes.com/2011-03-07/india/28665719_1_naam-charcha-dera-followers-sikh-organizations – Accessed 10 March 2011

²⁹ ‘Traffic suffers due to prayer meeting’ 2011, *The Pioneer*, 21 February

various parts of the State”, following anticipated expression of “solidarity” with the Sikhs.³⁰ Authorities imposed a curfew as part of an effort to prevent further violence.³¹

90. In July 2010, it was reported that Sikhs who had “protested in a peaceful manner” against a congregation being held by DSS followers in Thikriwala village in the Barnala district of Punjab were met with a “lathi charge” (or baton charge) by police. At least eight Sikhs were arrested. The protesting Sikhs alleged that the DSS naam charcha had been held “under police patronage”.³²
91. In June 2010, the DSS head reportedly visited a commercial area in the city of Kochi in the southern state of Kerala, accompanied by “around 50 security personnel, including commandoes from the Haryana police, private security guards and armed volunteers of DS”.³³
92. News reports from July 2009 indicate that the police in Punjab registered a case against three persons involved in a fatal attack on a DSS follower. The follower had been returning to Alampur Mandra village in the Mansa district of Punjab after attending a court hearing relating to a 2007 clash between DSS followers and Sikhs of the village. It was reported that the police had “registered a case and have dispatched police parties to identify and arrest the alleged culprits involved in the shooting incident”.³⁴ Prior to any arrests being made, however, a DSS follower “died in police firing when Dera Sacha Sauda followers went on rampage... while protesting police inaction in a sect member’s murder”.³⁵ The police later arrested three people for the murder that had prompted the protest.³⁶

FINDINGS AND REASONS

Country of nationality

93. The applicant claims to be a citizen of India. He arrived in Australia on apparently valid Indian passport, issued to him in India by the Indian government, and stating that he is a national of that country. The Tribunal finds on this basis that the applicant is a national of India, and has assessed his claims against that country.

Well-founded Fear of Persecution for a Convention Reason

Convention nexus

94. The applicant claims to fear harm at the hands of his parents, friends and relatives. He claims his parents, friends and relatives seek to harm him because he has converted, or intends to convert, from the Hindu religion to become a follower of the DSS. The

³⁰ ‘Curfew re-imposed in troubled Punjab town; 51 arrested’ 2011, *The Hindu*, 4 January

<http://www.hindu.com/2011/01/04/stories/2011010450990500.htm> – Accessed 10 March 2011

³¹ ‘Curfew clamped in Punjab town’ 2011, *The Hindu*, 3 January

<http://www.hindu.com/2011/01/03/stories/2011010361620500.htm> – Accessed 10 March 2011

³² ‘Punjab Police cane charged Sikhs protesting against “Naam Charcha” by dera followers’ 2010, *Punjab News Line*, 17 July

³³ ‘Dera Sacha Sauda chief visits Kochi’s shops with pomp’ 2010, *New Indian Express*, 19 June

³⁴ ‘Sacha Sauda follower shot dead in Punjab’ 2009, *United News of India*, 28 July

³⁵ Kamal, N. 2009, ‘Day later, another Dera follower dies in police firing’, *The Times of India*, 31 July

³⁶ ‘One killed in police firing as sect followers resort to violence’ 2009, *Indo-Asian News Service (IANS)*, 29 July <http://www.wrn.org/articles/31434/?§ion=sikhism> – Accessed 10 March 2011

Tribunal notes that the applicant did not expressly state at the hearing that he feared harm at the hands of members of the Sikh religion in Punjab as a DSS follower but that he did claim to fear harm in those terms in the answers provided on his protection visa application forms.

95. The applicant also claims that his parents will seek to harm him if he marries his girlfriend, who is a Sikh. These claims may be framed as hearing harm as a result of a claimed membership of a particular social group comprising "young Indian men who marry without permission" or "young Indian men who marry outside their religion" or as a further basis on which the applicant fears harm for the Convention reason of religion because the motivation for the claimed harm is his marriage to a woman of a different religion.
96. The applicant further claims he would be denied protection from this harm by the Indian police and the government because they are corrupt and are the "worst in the world".

Assessment of protection claims

Follower of the DSS

97. In considering the applicants knowledge of his claimed religion as a follower of the DSS, the Tribunal is mindful of judicial authority noting that degrees of understanding may vary from person to person in relation to a particular religion and that it may not always be appropriate for the Tribunal to ascribe all adherence to a particular religion a required and consistent minimum understanding of its tenets or to take on the role of an arbiter of doctrine with respect to any religion.³⁷
98. However, taking these authorities into account, Tribunal finds that the applicant showed a significant lack of basic knowledge about the DSS when questioned at the hearing. He was not able to state when the DSS was founded, provided the name of the current leader as the name of the founder and, of particular significance, stated that there were no restrictions on followers of the DSS, which is contradicted by the clear set of principles set out for DSS followers on the DSS website, as referred to at paragraph 72 above. Further, the Tribunal finds that the applicant expressly stated at the hearing that one of the reasons he disliked the Hindu and Sikh religions was because of the restrictions on what followers of those religions are able to eat – and referred to vegetarianism – yet one of the clear principles of the DSS is that its followers are vegetarian.
99. The Tribunal notes the submissions from the representative regarding the applicant's understanding of the use of the word "restriction" during the hearing and that the applicant may be a person whose ability to express a sincere religious belief is limited. The Tribunal does not accept either of these submissions. The Tribunal put to the applicant during the hearing a range of questions relating to what his understanding was of what DSS followers were expected to do and how they conducted themselves as followers of the DSS. The Tribunal does not accept that the applicant would have misunderstood all these questions simply through a misunderstanding of the meaning of

³⁷ See *Mashayekhi v MIMA* (2000) 97 FCR 381; *Wang v MIMA* (2000) 105 FCR 548; *MIAC v SZOCT* [2010] FCFA 159.

the word "restriction", even if he is, in fact, a vegetarian and does not drink alcohol. Further, the Tribunal finds the applicant to be a tertiary educated, articulate person who could reasonably be expected to express a sincerely held religious belief in more detail than the applicant was able to at the hearing, even if he is not a "good orator" or "preacher", as submitted by the representative.

100. The Tribunal also notes the applicant's claims he has merely done what DSS followers in Australia have told him to do and that he would do what he was told to do as a DSS follower in India when he returned there. The Tribunal accepts that the applicant may have met with DSS followers in Australia and discussed the nature of their religious beliefs with them. However, the Tribunal does not accept, in light of the applicant's very limited understanding of the DSS, that the applicant read books or conducted online research about the DSS before coming to Australia nor that he has participated in DSS activities in Australia or identified himself plausibly as a follower of the DSS. To the extent that the applicant has met with followers of the DSS in Australia or told people that he is a follower of the DSS, the Tribunal finds it extremely unlikely that such conduct in Australia would come to the attention of anyone in India and that, even if it did, it would not lead anyone in India to believe that the applicant, absent any further conduct on his behalf as a DSS follow in India, was a DSS follower.
101. In light of the above, the Tribunal finds the applicant's claims to be a follower of the DSS to lack credibility, that the applicant is not a genuine follower of the DSS and that he will not continue to be or become a follower of the DSS on his return to India. As a result, the Tribunal does not accept that the applicant has ever been threatened or physically harmed by his parents, other relatives or community members or members of the Sikh religion in India as a result of his membership of the DSS. Accordingly, the Tribunal does not accept that the applicant would face any risk of harm on his return to India because of his religion as a follower of the DSS at the hands of his parents, other relatives or community members or members of the Sikh religion.

Marriage to girlfriend

102. The Tribunal finds the evidence provided by the applicant about his girlfriend and the harm he may face if he intends to marry her to be generalised, vague and lacking credibility. While the applicant mentioned earlier in the hearing a fear of harm because he wanted to marry his girlfriend, when the Tribunal asked the applicant several times during the hearing if he feared any harm other than because of his religion, the applicant repeatedly stated that he did not. It was only at the conclusion of the hearing, when the Tribunal asked the applicant why he had referred to his girlfriend earlier in the hearing that the applicant provided further evidence about his concerns if he were to seek to marry her.
103. The Tribunal notes the references to the applicant's girlfriend in the post-hearing submission from the representative, however, given the lack of detail provided by the applicant supporting his claims to fear harm if he were to marry his girlfriend, and given the Tribunal's concerns about the applicant's credibility in relation to his claims to be a follower of the DSS, the Tribunal does not accept that the applicant has a girlfriend in India with whom he intends to become engaged or get married. Accordingly, the Tribunal does not accept that the applicant faces any risk of harm if he were to return to India either as a result of being the member of any particular social group arising from an intended or actual engagement or marriage to a girlfriend without

parents' permission or for the Convention reason of religion because he intends to marry or actually marries a woman from a different religion.

104. In light of the above, the Tribunal finds that the applicant does not face a real chance of suffering serious harm now or in the reasonably foreseeable future for reasons of his race, religion, nationality, political opinion or membership of a particular social group if he were to return to India.

Effective state protection

105. As the Tribunal has found that the applicant does not face a real chance of serious harm on his return to India, it is not necessary for the Tribunal to make findings in relation to whether the Indian government and security forces would provide the applicant with effective state protection in relation to any such harm.

Relocation

106. While the Tribunal has found that the applicant does not face a real chance of harm for a Convention reason if he were to return to India, in the alternative, the Tribunal also finds that it is reasonable to expect the applicant to be able to relocate to another part of India where he could live safe from any risk of harm of the nature claimed by him.
107. At the hearing, the Tribunal raised with the applicant the question of whether he could relocate to another part of India and be safe from the harm he feared at the hands of his parents, family and friends. The applicant stated that his parents, family and friends would be able to find him anywhere in India, that he had would find it very hard to deal with the cultural and linguistic differences in other parts of India and that he does not know any people in other parts of India. He stated that he would have to obtain a further tertiary qualification in India to be able to work there and that he could only do so if he remained dependent on his parents.
108. In light of its concerns about the applicant's credibility set out above, the Tribunal does not accept the applicant's claim that his parents, family and friends would seek to harm him in other parts of India were he to relocate there. Nor does it accept, in light of its findings about the applicant's claims to face a risk of harm as a result of a relationship with a girl with whom he went to school, that the applicant would be relocating to the with a girl to another part of India. Accordingly, the Tribunal finds that the applicant's parents, family and friends will not seek to harm him were he to relocate to another part of India.
109. Further, the Tribunal finds that the applicant, as a young, able-bodied male who can speak, read and write English, Hindi and Punjabi and has a tertiary qualification obtained in Australia is likely to be able obtain an income for himself so that he could adequately subsist if he were to relocate to another part of India. The Tribunal does not accept that the applicant would be unable to gain employment in another part of India because he does not know people in other parts of India. While the Tribunal acknowledges the challenges faced by a young man in having to deal with the linguistic and cultural challenges of relocation in India, it finds that, in all of the circumstances, the applicant could reasonably be expected to relocate to another part of India to avoid any risk of harm he faces in his home area of the Punjab.

Conclusion

110. The Tribunal finds that the applicant does not face a real chance of suffering serious harm now or in the reasonably foreseeable future for reasons of his race, religion, nationality, political opinion or membership of a particular social group.
111. Further, the Tribunal finds it would be reasonable to expect the applicant to relocate to another part of India where he would not face any risk of harm at the hands of his parents, family and friends.
112. Accordingly, the Tribunal is satisfied the applicant does not have a well – founded fear of persecution for any of the Convention reasons if he returns to India now or in the reasonably foreseeable future.

CONCLUSIONS

113. The Tribunal is not satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a) for a protection visa.

DECISION

114. The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.