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GENERAL COUNSEL'S OFFICE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No. 251277/2008

In the Matter of the Application of
MOHAMMAD ARIFF SAIDIN

Petitioner,

DECISION/ ORDER
Present: HON. NORMA RUIZ

-against-

THE NEW YORK PUBLIC LIBRARY and THE
DIVISION OF HUMAN RIGHTS

Respondents.

The following papers numbered 1 to 3 Read on this motion, ARTICLE 78
Noticed on 8/20/08 and duly submitted as No. 16 on the Motion Calendar of 1/26/09

Recitation, as required by CPLR 2219(a), of the papers considered in the review of this Motion		
to:	Papers	Numbered
Notice of Petition and Affidavits Annexed.....		1-2
Answering Affidavits.....		3
Replying Affidavits		
Memorandum of Law		
Other:		

Upon the foregoing papers, the foregoing petition is decided as follows:

Upon a review of the petition and the Answer submitted thereto, the petition is denied and dismissed.

Although inartfully plead, this pro-se petitioner seeks an order vacating the Respondent's Determination and Order of Dismissal for Lack of Jurisdiction dated May 16, 2008 and the reinstatement of his Human Rights Violation action against the New York Public Library. Said action was dismissed by the New York State Division of Human Rights ("Division") for lack of jurisdiction on the grounds that section 292.9 of the Human Rights Law does not grant the Division jurisdiction over public libraries since libraries are not classified therein as places of public accommodation.

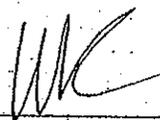
The Court notes that "[t]he standard of judicial review of an administrative determination is

whether the result reached was arbitrary and capricious or without a rational basis in the administrative record." *Matter of Pell v Board. of Educ.*, 34 NY2d 222, 230-231 [1974]; *Greystone Mgt. Corp. v Conciliation & Appeals Bd.*, 94 AD2d 614, 617 [1983], *aff'd* 62 NY2d 763 [1984]. A court "may not substitute its own judgment of the evidence for that of the administrative agency, but should review the whole record to determine whether there exists a rational basis to support the findings upon which the agency's determination is predicated" (*Matter of Purdy v Kreisberg*, 47 NY2d 354, 358 [1979]). The determination of an agency, acting pursuant to its authority and in its area of expertise, is entitled to deference (*Matter of Salvati v Eimicke*, 72 NY2d 784, 791 [1988])." *Nelson v Roberts*, 304 A.D.2d 20 (1st dept. 2003).

The Court finds that the Division's decision was not arbitrary and capricious nor was it without a rational basis in the administrative record. As such, the Court further finds no basis to reverse the respondent's Order. Accordingly, this instant Petition is denied and dismissed.¹

This constitutes the decision and order of the Court.

Dated: 4/03/09
Bronx, New York



NORMA RUIZ, J.S.C.

¹The Division's original administrative record may be picked up in Part 22.

NEW YORK SUPREME COURT - COUNTY OF BRONX

PART 22

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF BRONX:

Case Disposed	<input type="checkbox"/>
Settle Order	<input type="checkbox"/>
Schedule Appearance	<input type="checkbox"/>

SAIDIN, MOHAMMAD ARIFF

Index No. 0251277/2008

-against-

Hon. NORMA RUIZ

NEW YORK PUBLIC LIBRARY

Justice,

The following papers numbered 1 to _____ Read on this motion, DISMISSAL
 Noticed on September 26 2008 and duly submitted as No. _____ on the Motion Calendar of _____

	PAPERS NUMBERED	
Notice of Motion - Order to Show Cause - Exhibits and Affidavits Annexed	1	
Answering Affidavit and Exhibits		2
Replying Affidavit and Exhibits		
_____ Affidavits and Exhibits		
Pleadings - Exhibit		
Stipulation(s) - Referee's Report - Minutes		
Filed Papers		
Memoranda of Law		

Upon the foregoing papers this

Motion
~~is denied~~ to dismiss *by NY Public Library*

is denied as moot. Petition has been dismissed by this Court's order dated 4/03/09. This constitutes the decision and order of the court.

Justice:
 Dated:

Dated: 4.03.09

Hon. MC