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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street, N.W.
BCIS, AAO, 20 Mass Ave. 3/F
Washington, D.C. 20536

[redacted]

SEP 04 2003

File: EAC 01 177 55526 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the petition remanded for further action.

The petitioner is a religious organization. It seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. § 1153(b)(4), to perform services as an "Islamic Teacher." In his decision, the director failed to articulate a specific reason for denial.

On appeal, the petitioner submitted a statement; a list of 582 families whose children are being taught and the names of their 135 teachers; a list of 226 members present at the time of Friday prayers; and the 2001 Internal Revenue Service (IRS) Form 990 organizational tax document. The petitioner resubmitted the IRS Form 990 for the years 1995 through 2000, and the IRS letter of recognition granting § 501(c)(3) tax-exempt status to the organization. The petitioner also resubmitted statements from families whose children the beneficiary is teaching; copies of her credentials; and an affidavit from the beneficiary attesting that she works for the petitioner and has been paid.

8 C.F.R. § 204.5(n)(2) states in pertinent part, "The petitioner shall be informed in plain language of the reasons for denial and of his or her right to appeal."

In his decision, the director stated:

> Your mosque has filed at least 150 petitions offering full-time religious work to foreign religious workers. The beneficiaries are almost invariably citizens of Pakistan who have overstayed their authorized stay in the U.S. We simply do not find credible a claim that a mosque of your size has a need for 150 full-time religious workers. Therefore, your petition is denied.

The petition was filed on April 25, 2001. Therefore, the petitioner must establish that the beneficiary was working continuously as a religious worker from April 25, 1999 until April 25, 2001. The petitioner indicated that the beneficiary

last entered the United States on March 10, 1998, but failed to complete the Form I-360, Petition for Amerasian, Widow or Special Immigrant, as it pertained to the beneficiary's status in the United States. Part 4 of the Form I-360 submitted by the petitioner, indicating whether the beneficiary has worked in the United States without permission, also has been left unanswered.

It is noted that the evidence included in the record does not meet the requirements of 8 C.F.R. § 204.5(m). Upon review of the record, the petitioner has not established that:

(1) the beneficiary was continuously performing the duties of a qualifying religious vocation or occupation throughout the two-year period immediately preceding the filing date of the petition;
(2) the beneficiary has received a qualifying job offer;
(3) it has had the ability to pay the beneficiary the proffered wage since the filing date of the petition;
(4) the beneficiary is qualified to engage in a religious vocation or occupation;
(5) the beneficiary's activities for the petitioner require any religious training or qualifications; and,
(6) the position offered is a qualifying religious vocation or occupation.

In view of the foregoing, the previous decision of the director will be withdrawn. The petition is remanded to the director for consideration and discussion of the issues identified above. The director may request any additional evidence he considers pertinent. Similarly, the petitioner may provide additional evidence within a reasonable period of time to be determined by the director. Upon receipt of all the evidence, the director will review the entire record and enter a new decision.

ORDER: The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing. Entry of a new decision is to be certified to the Director of the Administrative Appeals Office for review.