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U.S. Citizenship  
and Immigration  
Services

01  
[Redacted]

FILE: [Redacted]  
EAC 01 174 53778

Office: VERMONT SERVICE CENTER

Date: AUG 14 2006

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Immigrant 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:

[Redacted]

**PUBLIC COPY**

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, initially approved the employment-based immigrant visa petition. On further review, the District Director, Citizenship and Immigration Services (CIS), New York, New York, determined that the petition had been approved in error. The district director served the petitioner with a notice of intent to revoke, and subsequently revoked the approval of the petition. The petitioner appealed the matter to the Administrative Appeals Office (AAO), disputing the district director's authority to revoke the approval of the petition. The AAO withdrew the decision and remanded the matter to the Vermont Service Center. The director issued a notice of intent to revoke and subsequently revoked the approval once again. The matter is again before the AAO on appeal. The AAO will sustain the appeal and reinstate the approval of the petition.

The petitioner is a mosque. It seeks to classify 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 a religious teacher. The director determined that the evidence submitted in support of the petition contradicts claims set forth by the beneficiary, or on the beneficiary's behalf, in a prior immigration proceeding.

In the notice of revocation, the director did not reiterate the grounds cited in the notice of intent to revoke. The director stated that the petitioner had failed to respond to the notice of intent. On appeal, counsel demonstrates that the petitioner did indeed respond to the notice. That response consists largely of copies of previously submitted materials.

Section 205 of the Act, 8 U.S.C. § 1155, states: "The Secretary of Homeland Security may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In *Matter of Estime*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and un rebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

*Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988) (citing *Matter of Estime*, 19 I&N 450 (BIA 1987)).

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the issuance of a notice of intent to revoke an immigrant petition. *Matter of Ho*. The approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Id.* at 582.

The petitioner has submitted various letters and certificates to establish the beneficiary's experience as a religious teacher. A translation of a certificate from Madrasaah Uloom in Pakistan states that the beneficiary "has worked in our madrassah (school) from 3/3/80 until 12/28/84 as a teacher of religion." In a letter dated April 29, 1991, [REDACTED] of Chinnar Public School (some documents spell the name "Chinar") in Mirpur, Pakistan, states the beneficiary "worked in our school as a Religious Teacher from 3<sup>rd</sup> March, 1986 until 11<sup>th</sup> August, 1989. She taught all the Islamic subjects including Holy Quran to children up to grade 10<sup>th</sup>."

CIS records show that, in 1992, the beneficiary filed a Form I-589 asylum application, claiming that, as members of the "Ahmadi" sect, she and her family suffered persecution at the hands of Sunni and Shia Muslims in Pakistan. In a sworn statement provided in conjunction with the asylum application, the beneficiary stated: "My husband . . . was forced to leave [the] military without pension. . . . He left [the] military in 1980. The years of 1980-1987 were spent abroad. In 1987, we organised a private school at Mirpu, AJ & K, which had a brilliant success." "AJ & K" stands for [REDACTED] and [REDACTED] the full official name of the territory of Pakistan commonly known [REDACTED]

In a second, accompanying statement, the beneficiary states:

We remained abroad from 1980-1987. In 1987, we organised a private school (Chinar School). . . . The school achieved tremendous financial and academic successes in a short period of two years. . . . The school academic curriculum was totally liberal, with a ting[e] of western education systems, and the syllabus was completely in English language. Faith was not a part of academics and it was only to be reflected or mentioned to govern the normal code of behaviour and ethics of students.

On June 4, 2002, the district director issued a notice of intent to revoke, stating that the beneficiary's own statements contradict the materials from Madrasaah Uloom and Chinnar Public School. The director stated that, according to the beneficiary's sworn statement, the beneficiary and her family "fled Pakistan 'from 1980-1987,'" in which case the beneficiary could not have been teaching in Pakistan during those years. The director also noted the beneficiary's assertion that "Faith was not a part of academics" at Chinnar Public School, which is not consistent with the assertion that the beneficiary was a religious teacher there. The director also concluded that the Chinnar Public School was operated "for profit."

In an affidavit prepared in response to the district director's assertions, the beneficiary states: "As a basis for revoking the approved Petition, the District Director claims that . . . I stated that I and my family 'fled' Pakistan from 1980 through 1987. This is not true or correct. The word 'fled' was never used in this context." We note, here, that the district director did not place the word "fled" in quotation marks. Rather, the director was paraphrasing the beneficiary's remarks. The beneficiary continues:

I advised the person who prepared my I589 Application that my husband was living abroad from 1980 through 1987, while I remained in Pakistan where I was working and living with my children. . . . It seems apparent that the preparer misunderstood that part of my history. In fact, as Exhibit "A," which is annexed indicated, I gave birth in Pakistan and was hospitalized in Pakistan during the period in question.

Exhibit A consists of copies of birth certificates and hospital documents, showing that the beneficiary's children were born in Pakistan in 1982 and 1984, and that the beneficiary was hospitalized in Pakistan in 1986. These documents are persuasive evidence that the beneficiary was, in fact, in Pakistan during the mid-1980s. The passive voice sentence "The years of 1980-1987 were spent abroad" appears, judging from the context, to refer specifically to the beneficiary's husband.

The beneficiary continues:

The entire I360 Application is true, but due to some misunderstandings and miscommunications between myself and the preparer of my initial I589 Application, some words and parts of the I589 application were not written in a precise or exact manner. . . . I did not read the first I589 filed carefully or in its entirety and should not be responsible for minor inaccuracies or discrepancies based upon errors written by the first preparer. In 1992, my English skills were very basic and I could not comprehend the entire meanings and implications of all words.

While we shall give due consideration to the claims in the beneficiary's affidavit, we take issue with her assertion that, because she "did not read [them] carefully," she "should not be responsible" for statements that she signed under penalty of perjury. If the beneficiary can simply disown any prior sworn statement in this way, then it becomes very difficult to assign any probative value to any written statement the beneficiary makes (including the present affidavit). It is significant that the beneficiary has documented her key claims with independent and objective evidence (such as the aforementioned birth certificates). While it is certainly ill-advised to sign a sworn statement without reading it (as the history of this proceeding attests), the beneficiary's carelessness should not permanently disqualify her for immigration benefits for which she is otherwise eligible.

[REDACTED], in a separate affidavit, discusses the preparation of the beneficiary's sworn statement:

[S]ometime in March 1992, I was approached by [the beneficiary] who asked me to write the story of her life because she apparently needed to present it to the Immigration Authorities in support of some political asylum application that she was going to make.

Sometime in April, 1992, I met with her and for approximately 3 hours she told me, what I came to label as the story of her life. I did not write any notes about what the applicant told me because I tend to extensively rely on my memory.

Sometime in June, 1992, I found the time and inspiration to write the story of [the beneficiary's] life. I handed it back to the applicant and she was so amazed by the volume of my writing and in an attempt to show her gratitude for the quality of my work, she signed every page of the document without reading its content of the text in English. . . .

I maintain that there is a very good possibility that I inadvertently distorted the very lengthy story told to me by the applicant. . . . This could be because of the period of time that elapsed between the moment I was narrated the story and the time I got to produce it in writing.

We return, now, to the beneficiary's affidavit:

I did operate and serve as a religious teacher at the Chinar School. . . . Although the Chinar School was meant to be a liberal and secular school, it still had a religious base. In the Pakistani culture and society, religion must be taught in schools and although, by Pakistani standards, the Chinar School may be considered "secular" because its religious outlook was less fanatic and less strictly orthodox, it still did maintain a religious component as evidenced by a copy of the Chinar School brochure, annexed as Exhibit "B." . . . The statement "faith was not part of academics" was the wrong choice of words and used loosely and indiscriminately by the preparer of the I589 Application to describe his implied erroneous religious opinion about the Chinar School.

(The beneficiary's emphasis.) The petitioner submits a copy of the Prospectus for Chinnar Public School, which includes the following passage:

#### RELIGIOUS EDUCATION

There is a feeling among some sections of the public that school[s] using English as the medium of instruction do not, perhaps, devote enough time to the teaching of Islamiat. At our school we will pay a lot of attention to the teaching of Islamiat, Urdu and Pakistan Studies. Properly qualified teachers have been employed to give due importance to this subject. One room is spared for Prayers.

Elsewhere, the prospectus indicates that "Urdu, Islamiat and Arabic will be compulsory. (As per instruction of the Government.)" Thus, school documents prepared long before the filing of the I-360 petition indicate that the school offered Islamiat (Islamic studies). The prospectus does not identify the school as being operated for profit. The beneficiary's assertion that the school was successful does not imply that it was a for-profit entity.

In an affidavit dated April 29, 1991, [REDACTED], principal of Chinnar Public School, describes the beneficiary as "the active director of the school. Additionally, she was responsible to teach Islamic Studies to students up to grade 8<sup>th</sup>." In court documents from 1988, a senior civil judge of the Civil Court of Mirpur, [REDACTED] stated that the beneficiary "claims that she is a devout religious teacher." This evidence shows that the beneficiary appears to have identified herself as a "religious teacher" over a decade before the filing of the I-360 petition; it is not a new claim formulated to qualify her as a special immigrant religious worker. The judge did not directly deny that the school offered religious instruction; rather, the judge considered allegations that the instruction offered was "not free from blasphemies and heresies."

Whatever controversy may have surrounded the Chinnar Public School, the record amply demonstrates that the beneficiary did not simply fabricate a prior history as a religious teacher for the purpose of obtaining status as a special immigrant religious worker. The petitioner has also shown that she was in Pakistan in 1982, 1984 and 1986 and, as counsel notes, the director has produced no evidence that the beneficiary was consistently outside of Pakistan during that period.

With the above information in the record, the AAO remanded the matter on procedural grounds on January 9, 2006. In its remand order, the AAO instructed the director to "consider the materials submitted on appeal, in which the beneficiary seeks to resolve the perceived inconsistencies upon which the district director based the revocation." The AAO also instructed the director, in the event of a decision adverse to the petitioner, to certify the decision to the AAO. The director followed neither of these instructions. The AAO has received the matter not on certification, but on appeal. The director's notice of intent to revoke is, in terms of substance, essentially identical to the district director's earlier notice. There is no discussion of the rebuttal evidence described above. For reasons already discussed, we find this rebuttal evidence to be credible and persuasive.

The director, in revoking the approval of the petition, offered no criticism under any of the regulatory provisions concerning special immigrant religious workers. The revocation was based solely on concerns about the beneficiary's credibility with regard to events that took place well outside the two-year statutory qualifying period immediately prior to the petition's filing date. While the beneficiary's credibility is relevant insofar as section 204(b) of the Act requires that a petition must be based on truthful information, inaccuracies in the beneficiary's 1992 sworn statement do not inherently discredit evidence submitted by the petitioner. Much of this material is from sources other than the beneficiary. The director must keep in mind that the petition does not rest entirely, or primarily, on the beneficiary's statements. Credibility questions concerning the beneficiary's activities in the 1980s do not necessarily compromise the petitioner's credibility regarding issues that more directly affect the outcome of the petition.

If it is the director's contention that other grounds exist to revoke the approval of the petition, the director continues to have the authority, under section 205 of the Act, to revoke the approval of this petition for good cause. The director has, thus far, identified no other grounds. We find that the petitioner has overcome the specific grounds stated in the notice of intent to revoke and that the director erred in failing to consider, or even acknowledge, the evidence that the petitioner has repeatedly submitted to rebut those grounds.

**ORDER:** The appeal is sustained. The approval of the petition is hereby reinstated.