

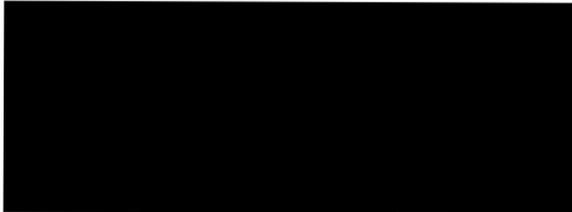
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
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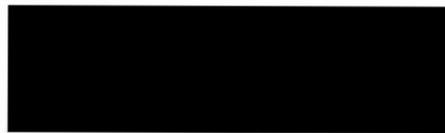
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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date:

LIN 07 090 52707

JUN 26 2009

IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, the petitioner states that he would like to work in the United States as a soccer player or coach.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition, filed on February 1, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a soccer player.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The petitioner has submitted evidence pertaining to the following criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

To fulfill this criterion, the petitioner initially submitted the following evidence:

1. A certificate for "standing first" and another certificate for the "highest scorer" from the Social Welfare Sports Center, both for the petitioner's participation in the 2nd U-16 Football Tournament in 2002;
2. A certificate of appreciation for the petitioner's participation as a runner in the 7th Budhasubba Tuborg Gold Cup in 2061 from the Dharan Football Club (accompanied by a picture of the trophy);
3. A certificate for first position in the qualifying round at the Khukuri Cup Football Tournament in 2003 organized by the Surya Nepal Private Limited and the All Nepal Football Association ("ANFA") (uncertified translation that appears to be a partial translation because signatures on bottom were not translated);
4. A certificate for second position at the Khukuri Cup Football Tournament in 2003 organized by the Surya Nepal Private Limited and the ANFA (uncertified translation) (accompanied by a picture of the trophy with no inscriptions on it);
5. A certificate for second position in the 15th National Tilottama Gold Cup in 2002 (uncertified translation) (accompanied by a trophy with an inscription without a certified translation);
6. A certificate for first position and a separate certificate for best player, both for the petitioner's participation in the Sun Moon Peace Cup in 2005 from the National Police Academy (accompanied by photographs of three separate trophies from this tournament and a separate picture of the petitioner holding one of the trophies);
7. A photograph of the 2005 ANMA NAsEA Soccer Cup for best player without further inscription identifying the petitioner (not a clear picture);
8. An undated photograph of the petitioner with a trophy, and underneath it a handwritten caption indicates the picture depicts the petitioner "receiving [the] best player award on [at the] soccer tournament" which was "organized by: Nepalese Association Chicago Convention;"

9. A certificate for second position in the Inter-School Soccer Tournament in 1999 from His Highness Prince Nirajan Bir Bikram Shah Dev (uncertified translation);
10. A certificate for first position at the 2nd Inter-School ANFA Football Tournament in 2000 (uncertified translation);
11. A certificate of appreciation for first in the Xavier International Inter College Football Tournament in 2060;
12. A certificate for "runners up" in the ANFA Cup Youth Football Tournament in 2001;
13. A photograph of a trophy for 2nd Bhunte Memorial Football Running in 2062 without an inscription with the petitioner's name;
14. A photograph of two trophies without any inscriptions but with handwritten captions that indicate they are for the Shoyambhu Cup and the Nawa Jyoti Cup;
15. A photograph of a trophy awarded to the petitioner from the British Gurkha College for "a token of memory;"
16. A photograph of a trophy awarded to the "high scorer," without indicating the petitioner's name and without a date, from the Social Welfare Sports Center;
17. A photograph of a trophy with an uncertified handwritten translation that indicates the trophy is for "runners up 13th Tilottama Gold Cup;"
18. A photograph of two trophies, one without any inscription and the other is another picture of the same trophy described in item 15;
19. A certificate of merit for participation in the Subroto Mukerjee Cup Football Tournament in 2001;
20. A certificate of merit for participation in the Subroto Mukerjee Cup Football Tournament in 1998;
21. A certificate of merit for participation in the Subroto Mukerjee Cup Football Tournament in 1999;
22. Three photographs with a picture of awards with inscriptions, without a certified translation and only a handwritten description of the awards was provided; and
23. A photograph of an award for participation in the Wichita Gold Cup, 2006.

After a review of the initial evidence submitted, the director issued a Request for Evidence ("RFE") dated April 18, 2008. In the RFE, the director notified the petitioner that the evidence provided was insufficient to establish eligibility. More specifically, the RFE requested additional information regarding the awards including the number of competitors the petitioner was competing against and the level of competition for each award. In response to the RFE, the petitioner provided the following evidence:

24. A letter from the President of the Nebraska Nepalese Society dated May 12, 2008, which stated that the petitioner had won the most valuable player award on August 31, 2006 at the All Nepalese Midwest Association (On appeal, the petitioner provided a picture of him receiving the award);
25. Fourteen (14) different letters from Dharendra Pradhan of ANFA, all of which were undated:
 - a. The first letter indicated that the ANFA "is the governing body of football in Nepal" and that it is "responsible for the national team as well as every higher level football competitions held in Nepal;"

- b. The second letter indicated that the petitioner was a team member of the Manang Marshyangdi Club ("MMC"), whose team won (six times) the National Pro-League, which is the biggest tournament in Nepal, beating thirteen other club teams;
- c. The third letter indicated that the petitioner was a team member on the team that placed third in the AFC U-20, which is the biggest tournament all over Asia for the U-20 category (players under 20 years of age);
- d. The fourth letter stated that the petitioner won the most valuable player in the Sun-Moon Peace Cup and his team, Friends Club, achieved first position beating 7 other participating clubs;
- e. The fifth letter stated that the petitioner secured first position and title of highest scorer in the Bhunte Smirte Cup Football Tournament in Dhulikhel, Nepal, which is the most famous and only tournament held in that city according to Mr. Pradhan, wherein his team competed against 8 other teams;
- f. The sixth letter indicated that the Jawalakhel Youth Club was the first runner up in the 7th Annual Budha Subba Tuborg Gold Cup, which is one of the biggest tournaments held outside the capital city and where other South Asian countries also compete, wherein ten other clubs participated;
- g. The seventh letter stated that the New Road Team ("N.R.T.") was the first runner-up at the Tilottama Gold Cup, the most famous tournament in Butwal, wherein seven pro- club teams participated;
- h. The eighth letter indicated that the Nobel Academy secured first position at the 1st Xavier Inter-College Football Tournament, which is the biggest inter-collegiate soccer tournament in Nepal, wherein seven other schools competed;
- i. The ninth letter stated that the ANFA Academy was presented with first position for its participation in the biggest inter-school tournament in Nepal on the occasion of the thirtieth birthday of the Late Crown Prince Dipendra Bir Bikram Shah Dev wherein nine schools participated;
- j. The tenth letter stated that the ANFA Academy was presented with second position for its participation in the biggest inter-school tournament in Nepal on the occasion of the twenty-ninth birthday of the Late Crown Prince Dipendra Bir Bikram Shah Dev wherein nine schools participated;
- k. The eleventh letter indicated that the ANFA Academy was able to secure the first runner up position in the Khukuri Cup final round against eleven other teams, and that this tournament used to be one of the biggest tournaments in Nepal;
- l. The twelfth letter stated that the ANFA Academy won first position in the Khukuri Cup Football Tournament qualifying round wherein the tournament used to pay the highest prize amount in Nepal and the competitors included all the A division clubs including the district's team of which there were ten participating teams;
- m. The thirteenth letter indicated that the ANFA Academy B was the first runner up at the ANFA Cup Youth Football Tournament, the biggest inter-school tournament that used to be organized in Nepal with eleven participating teams; and
- n. The fourteenth letter stated that the ANFA Academy won first place in the Subroto Mukherjee Cup Inter-school Football Tournament, the biggest inter-school

tournament held in New Dehli, India where the winning teams from South Asian countries participate.

On appeal, the petitioner provided a list of all his prizes and awards, and a brief description of them. Additionally, he submitted the following new evidence:

26. A certificate without any translation provided, wherein the only recognizable English word on it is "San Miguel;"
27. A photograph with inscriptions without a translation or a caption;
28. A certificate awarded to the petitioner for fifth place for participating in Martyr's Memorial Everest "A" Division League Football Tournament in 2061;
29. A certificate for "man of the match" awarded to the petitioner at the King's Cup Football Tournament in 2058;
30. A certificate from MMC presented to the petitioner in 2004 for giving blood;
31. A certificate from Martyr's Memorial League Football Tournament in 2004 for being "man of the match;"
32. An internet printout from www.socceragenepal.com, which indicated that the petitioner scored 4 goals in the Martyr's Memorial League with 23 players in the competition scoring the same or better than him, with the highest scorer making 20 goals;
33. An internet printout from www.indiantzone.com regarding the Subroto Cup, which explained that it is a league system tournament for two groups, players under 14 years old and those under 17 years old, and that individual players can win "best player" and "most promising player;"
34. Various articles from websites that report on games during various years of the Budda Subba Gold Cup Football Tournament;
35. An article from www.socceragenepal.com, entitled "Khukuri Cup to be kicked off from 15 February 2004, which provided limited information regarding this competition and internet printouts from www.chautari.com, a chat forum where the discussion dealt with the Khukuri Cup; and
36. A list of champions from 1972 through 2004 for various competitions taken from www.nepalsport.com.

The director found there was insufficient evidence to meet this criterion, and we agree. There was no evidence provided to demonstrate that any prizes won by the petitioner constitute nationally or internationally recognized prizes for excellence in the petitioner's field, such as supporting evidence showing the prestige associated with receiving the awards or some other evidence consistent with national or international acclaim at the very top of the field. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally *recognized* in the field of endeavor and it is his burden to establish every element of this criterion. Moreover, the record even lacks general information about the competitions (such as the award criteria or the percentage of entrants who earned some type of recognition). The petitioner, in response to his RFE, attempted to provide more information regarding the competitions for which he participated. However, this information was all provided through letters from one person, Dharendra Pradhan of ANFA. These letters (25a-n) regarding the various competitions were overly broad, and

failed to offer comparisons between the competitions that the petitioner participated in and other competitions in Nepal. For example, items 20i, 20j and 20m all indicate that these competitions are the "biggest inter-school" soccer tournaments. This makes it difficult to reconcile the meaning of "biggest" without providing an additional quantitative measurement. There was also no evidence regarding the types of awards presented at all these competitions, how many awards were presented and whether the petitioner won the highest award. For example, he won "man of the match" and "high scorer" in different competitions. If each competitor won an award at the competition or more important awards were presented at these competitions, these prizes would be insufficient to fulfill this requirement. Moreover, it is unclear if some of these awards were awarded to the team as a whole, rather than being individually presented to him. Additionally, many of the competitions appear to be regional as per the descriptions provided by the ANFA representative, [REDACTED]. For example, items 20e, 20f and 20g all indicate they are the biggest tournaments in cities within Nepal. Moreover, the participating teams, referenced in [REDACTED] letters, appear to be mainly club teams and all his awards have been awarded at this level. Therefore, no evidence was provided to demonstrate that the petitioner won any of these awards while participating at the national level, e.g. while playing for the national team of Nepal. Further, item 30 is a certificate from the petitioner's team, MMC, for donating blood. This award would also fail to meet this highly restrictive criterion.

Further, the petitioner failed to provide certified translations for the awards or certificates contained in items 3, 4, 5, 9, 10, 22, 26 and 27 as required by 8 C.F.R. § 103.2(b)(3). Instead, the translator signed the bottom of each translation, and provided one certification that was intended for all the translations. As some of these translations appear only to be partial, and not full translations, the translations without individual certifications are not reliable. Accordingly, this evidence is not probative and will not be accorded any weight in this proceeding.

In light of the above, the petitioner has not established that he meets this criterion.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner initially submitted a letter from the President of ANFA, [REDACTED] dated September 26, 2006, who stated that the petitioner was selected for a "project" within the ANFA, as part of the ANFA Academy. The letter described the selection process for this project, as follows:

The kids under the age of twelve had to undergo a series of tough selection procedures conducted through out the world of Nepal by Top International and National selectors and coaches.

In addition, the petitioner provided his membership credentials for the AFC Youth Championship Team (valid in 2004), the MMC (two membership cards were provided for this group), the ANFA (valid 2062) and the Friends' Club (valid until 2061). The petitioner also submitted identification cards which he appears to have used for two tournaments, the AFC U-20 Championship Qualifying Group and the San Miguel 2060 "A" Division League Football Tournament. The petitioner also submitted a photograph with a handwritten caption that identified the items as "souvenirs" from Japan and Vietnam, which had names of organizations on them.

In response to the RFE, the petitioner submitted another letter from [REDACTED] of ANFA. In the letter, he stated that the petitioner "was a regular member of the academy run by All Nepal Football Association for four years." His letter added that the petitioner "was also the member of the squad that won the AFC Youth-19 qualifying round in Bangladesh," and that no other Nepali team before had made it to the finals in that tournament.

On appeal, the petitioner submitted a summary of the requirements for membership in three associations in which he claims to be a member, the ANFA, the Friends' Club and MMC, as well as a synopsis of the ranking system regarding the ANFA. This information was presented by the petitioner and was not accompanied by citations to any authority. Aside from submitting and resubmitting reference letters to confirm the petitioner's memberships in these associations as well as a few other groups, the petitioner submitted a print-out from the MMC's website which lists the petitioner as a player on the team and information regarding the club from Wikipedia. However, there are no assurances about the reliability of the content from Wikipedia, as it is an open, user-edited internet site.¹ Reliance, therefore, on Wikipedia is inappropriate. *See Badasa v. Mukasey*, 540 F. 3d 909 (8th Cir. 2008). As such, we will not give significant weight to claims for which Wikipedia is the only cited source. The petitioner also submitted an internet printout from www.nepalsport.com, and highlighted an article by the websites webmaster entitled "MMC needs to participate in Asia." The article states that MMC "without a doubt has been Nepal's top football club for the last decade." That same article went on to say that the Nepalese teams had not been

¹ Online content from "Wikipedia" is subject to the following general disclaimer:

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See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on June 26, 2009 and incorporated into the record.

competitive against other East Asian teams, normally receiving a "massive spanking" and that "with the advent of the Champion's League, AFC Cup and AFC President's Cup, a Nepali club would play teams of the same level and multiple matches." This article therefore failed to demonstrate that MMC requires outstanding achievements of its members, rather it illustrated that club teams, such as MMC, were not competitive until new competitions were formed among less-skilled teams.

In addition, the petitioner provided a printout from the Friends' Club website which described the club as a local sports and social club, which does not limit its activities to soccer, and whose "whole thrust is to make [a] more empowered and healthy citizen, at least of its locality." This printout regarding the Friends' Club failed to include any details regarding its membership requirements or how the candidates for membership are judged. However, from the information provided, it appears that the scope of the club's members is very broad, not limited to only soccer players, and therefore would not require outstanding achievements in soccer nor would its membership base be judged solely by recognized national or international experts in soccer.

The petitioner also submitted information regarding the N.R.T. that failed to provide any information regarding the membership requirements or how the candidates for membership were judged. Additionally, the only evidence submitted to confirm the petitioner's membership in this organization was submitted with regard to the criterion pursuant to 8 C.F.R. § 204.5(h)(3)(i) (Item 25g), and did not directly confirm the petitioner was a member of the squad.

A web printout from www.nepalsport.com was also provided to confirm the petitioner's membership in the Boys Sports Club in March of 2004 and in the Friend's Club in April 2004. Additionally, the petitioner provided web articles showing the placements in competitions of the various club teams that he played on. However, again, none of this information established the requirements of membership for these teams nor the procedures for judging their potential members. The petitioner also submitted another undated letter from Dhirendra Pradhan of ANFA, which stated that the organization in 1997 "started searching intensely for about 200 young lads less than 12 years of age from almost all 75 districts of the country." The letter went on to explain the selection committee was comprised of "top football personnel" and listed some of the judges. Additionally, his letter was accompanied by a list, without a date or title, which stated that 40 participants were selected of 10,000. The letter is unclear and does not directly state what team it is referring to, however it appears the selections referred to in the letter were made for the ANFA Academy or the FIFA project. An article printed from www.nepalnews.com that appears to have come from *The Kathmandu Post*, dated January 6, 2003, similarly indicated that ANFA was going to establish academies in 30 districts "which would cater to the needs of some 1,000 young footballers across the country." This information appears to be inconsistent. However, even if the petitioner was a member of the more selective FIFA project, the petitioner was in the academy when he was under 12 years old.

The director found that the evidence submitted failed to demonstrate that the petitioner's membership in any of these organizations required "outstanding achievements of their members" or that "membership was evaluated by experts at the national or international level." Further, the director noted that being a member of a group while still a student has "less evidentiary weight than

membership in an organization that has competition open to professionals in the field." We agree and find that the record lacks evidence (such as membership bylaws or official admission requirements) showing that any of the groups require outstanding achievements of its members, as judged by recognized national or international experts in the petitioner's field or an allied one. The evidence also fails to demonstrate that membership is judged by recognized national or international experts in the field.

As such, the petitioner has not established that he meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national level from a local publication or broadcast, or from a publication printed in a language that the vast majority of the country's population cannot comprehend. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.²

To fulfill this criterion, the petitioner submitted the following evidence:

1. An article from *Samacharpatra*, entitled "Manag's Birat Toward America," dated December 23, 2005 (date was not in translation), written by Anil Bogate;
2. An article from *The Rising Nepal*, entitled "Birat Morale Booster for Friends," dated October 8, 2005, written by Ritesh Rijal;
3. A photograph of the petitioner with his statistics from *Khelkudh Maanch Monthly Sport's Magazine*, untitled, dated May 2005, without an author provided;
4. An article taken from www.nepalnews.com which indicates it was printed in *The Kathmandu Post*, entitled "Friends' Club hammer Madhyapur into submission," dated March 5, 2003, without an author provided;
5. An article from *The Rising Nepal* (the source was written by hand on the document), entitled "Friends' Club crush Sun Moon for Final," dated April 29, 2005, written by "Our Correspondent;"
6. An article from *The Kathmandu Post* (the source was written by hand on the document), entitled "Manandhar doubles guides ANFA into quarters," undated and without an author,

² Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, for instance, cannot serve to spread an individual's reputation outside of that county.

- which reports the events of the Khukuri Cup Football Finals and only briefly mentions the petitioner in a caption under his picture;
7. An article from *Samacharpatra*, entitled "Nepal Trying to Create History with High Moral," dated September 14, 2004 (date was not in translation), written by Ajay Phuyal, about the U-20 team generally, which only mentions the petitioner's name as a striker;
 8. An article from *The Annapurna Post*, entitled "Friends Club in Final," dated April 28, 2005, without an author listed;
 9. An article from *Samacharpatra* (the source was written by hand on the document and was not translated), entitled "Reliable Striker Birat," undated, written by Ajay Phuyal;
 10. An article from *Samaya*, entitled "Birat's Journey," dated May 12, 2005, without an author;
 11. An article from *The Kathmandu Post*, entitled "Ghising guides Friends," dated May 1, 2005, without an author listed;
 12. An article from *The Kathmandu Post*, entitled "Nepal Ready for Heavyweights," dated September 11, 2004, without an author listed and the copy of the article was difficult to read, but it appears to mention the petitioner only to list his name along with his other teammates in a caption near his team picture;
 13. An article from *The Himalayan Times* (the source was written by hand on the document), entitled "Friends' win Sun Moon Peace Cup," dated May 1, 2005, without an author, which discussed the Sun Moon Peace Cup competition and only briefly mentioned the petitioner;
 14. An article from *The Annapurna Post* (source was written by hand on the document), entitled "Manang Marshyandi Trying to Get Back to their Winning Form," dated June 1, 2005, written by Praskah Timalshinha; which only briefly mentions the petitioner;
 15. An article from *The Rising Nepal*, entitled "MMC, MPC Advance," dated June 20, 2005, written by "Our Correspondent," which only briefly mentions the petitioner and his contribution to the game;
 16. An article from *The Rising Nepal*, entitled "Friends Lift Sun Moon Peace Cup," dated May 1, 2005, written by "Our Correspondent;"
 17. An article from *The Himalayan Times*, entitled "Friends' Eclipse Sun Moon, Advance to Final," dated April 29, 2005, without an author listed;
 18. An article from *Samacharpatra* (name of source not translated and hand written on the article), entitled "Friends' in Final with Borat's Hat Trick," dated April 29, 2004 (date not translated but just written by hand on the article), without an author listed;
 19. An article from *The Kathmandu Post* (source not on original article, only written by hand at the top of the article), entitled "Friends Enter Semis," dated April 26, 2005 (date also only written by hand and not on article) and no author given;
 20. An article from *The Kathmandu Post* (source written on original article by hand), entitled "Basanta Makes Merry," dated September 8, 2005 (date written by hand on original article), without an author's name provided;
 21. An article from the *Hindustan Times*, entitled "Goals Galore in Subroto Cup School Football," dated November 28, 2001, without an author's name provided; not about the petitioner and only briefly mentioning him, misspelling his name;
 22. An article without a source listed, other than being hand written as Bangladeshi Daily Paper, entitled, "Nepal Rout Pakistan," without a date or author listed and which only briefly lists the petitioner's name as a team member;

23. An article from *The Rising Nepal*, entitled "Boys Sports Inflict Big Defeat to Kathmandu," undated, written by "Staff Reporter;"
24. An article without a source listed, entitled "Boys' Sports Club triumph in Battle of Minnows," undated, without an author and the article was not about the petitioner;
25. An article from *The Kathmandu Post*, entitled "Bhandari Golden Goal Ends RCT Challenge," undated and without an author;
26. An article from *The Himalayan Times*, entitled "Policemen in Semis, MMC Enter Last Eight," undated and without an author provided, which only briefly mentions the petitioner;
27. An article from *The Rising Nepal* (source written by hand on original article), entitled "FC held, lose vital points," undated, written by a "Staff Reporter;"
28. An article from *The Himalayan Times* (source written by hand on original article), entitled "Under 20 Team Depart," article so small and blurry that it is not legible so date or author not discernable;
29. An article from *The Annapurna Post*, dated September 14, 2004 (both the date and the source are handwritten), article barely legible and not translated, appears to be the exact same article as 28 but with a different source written in by hand;
30. "Articles" from various websites, including www.socceragenpal.com, www.kantipuronline.com, www.b2nepal.com, www.nepalsport.com, as well as what appears to be a chat forum, www.chautari.wnso.org/forums; Not many of the author's names were provided, some are not articles but just a listing of statistics and wins, and only one is about the petitioner, entitled "Former MMC player Birat Thapa writes his monologue about the MMC-TAC Class," dated September 22, 2006. However, half the article is cut off and cannot be read and the author is not listed;
31. Information from the Press Council Nepal regarding when various Nepalese Newspapers including their categorization (which is not explained) and their year of publication;
32. Information from www.kantipuronline.com explaining that Kantipur Online is a new venture with an "aim to develop a comprehensive online site on Nepal;"
33. Information regarding various publications in Nepal from the Asian Pacific Media Network, which only provides circulation statistics for a few of the publications provided as evidence for this criteria. It says the *The Kathmandu Post* is Nepal's largest selling English daily with a circulation of 25,000, and the combined circulation for *Gokhapatra* and the *Himilaya Times* is 150,000.

The director requested additional evidence, such as the dates where omitted from articles and other identifying materials. In response to the RFE, the petitioner submitted the following documents:

34. Item 2 was resubmitted;
35. Item 4 was resubmitted, again without providing an author;
36. Item 11 was resubmitted, again without providing an author;
37. Item 5 was resubmitted with the source, *The Rising Nepal*, however still failing to provide an author aside from stating "Our Correspondent;"
38. Item 12 was resubmitted but the copy submitted is still barely legible and an author could not be identified;
39. Item 15 was resubmitted, again without providing an author except for "Our Correspondent;"

40. Item 13 was resubmitted, but this time the source was visible on the document, *The Himalayan Times*, yet still no author provided;
41. Item 16 was resubmitted, again with the author identified only as "Our Correspondent;"
42. Item 17 resubmitted, again without an author;
43. Item 21 resubmitted, again without an author;
44. Article described in item 30, "Former MMC player Birat Thapa writes his monologue about the MMC-TAC Class," dated September 22, 2006, again without an author listed and with part of the page cut off;
45. A letter from [REDACTED] of the Kamana Publication House, dated September 4, 2008, which produced the *Nepal Samacharpatra* and others, confirming that the petitioner has appeared in its newspapers but gives no information about the circulation of its publications;
46. A letter from [REDACTED] of Soccer Age Nepal, dated May 13, 2008, stated that Soccer Age Nepal is the "most read soccer news paper in the country" and confirmed that it had published various articles about the petitioner;
47. A letter from [REDACTED] of News Media Ltd., undated, stated that the petitioner appeared in many articles in *The Annapurna Post* but did not discuss the publication or its importance, circulation, etc. in Nepal; and
48. Items 31, 32, and 33 were resubmitted.

The director found that "although the petitioner was mentioned [in the articles submitted] the evidence does not establish that the petitioner was the sole focus of the articles, and does not establish that the petitioner's participation in these performances evidence acclaim in the field." On appeal, the petitioner submitted the following:

49. An internet printout from www.kantipuronline.com which indicated the Kantipur Daily was the "most widely circulated Nepali Daily Broadsheet with largest readership in Nepal" with the daily circulation of 210,000;
50. An internet printout from www.socceragenepal.com which provided no information about its circulation;
51. An internet printout from www.mediaworkasia.com which indicated that the *Hindustan Times* (India) has a total audience of 3,946,000;
52. An internet printout from www.newsofnepal.com which indicated that circulation for the *Samacharpatra* is 100,000; 60,000 from Kathmandu and 40,000 from Biratnagar;
53. An internet printout from www.mediaseen.com, stated that the *Annapurna Post* has a "daily circulation of 65,000 copies;"
54. An internet printout from www.annapurnapost.com, stated that the *Himalayan Times* has a circulation figure of "45,000 reigns" and that the *Annapurna Post* has a circulation of "76,000 copies;"
55. An article with no title except "Birat Thapa," that does not contain a source name, a date or an author;
56. Item 2 was resubmitted;
57. An article without a translation that has a picture of the petitioner with a caption and handwritten on the article it says "Samaya (weekly magazine)" and "May 12, 2005;"
58. Item 12 (38) was resubmitted;

59. A picture of the petitioner's Under-20 football team with a caption with no indication of the source, and without an accompanying article or author or date (other than the one handwritten on the page, September 2004);
60. Item 21 (43) resubmitted, again without an author;
61. 4 articles without any translations;
62. An article entitled "Under 20 Team Depart," without a source, date or author, with print so blurry that it cannot be read (see items 28 and 29 above);
63. 5 additional articles without translations;
64. Item 2 (34) was resubmitted;
65. 3 additional articles without translations;
66. Item 12 (38) resubmitted and still difficult to read; and
67. 2 additional articles without translations.

This criterion specifically requires a title, date, and author, as well as a translation where necessary, for the published materials provided as evidence. The petitioner failed to adhere to these requirements. The petitioner failed to include the titles for items 3 and 55, and items 6, 22, 23, 24, 25, 26, 28, 55 and 62 were all missing dates. Moreover, the petitioner did not provide the name of the author for items 3, 4, 6, 8, 10, 11, 12, 13, 17, 18, 19, 21, 22, 24, 25, 26, 28, 44, 55 and 62. Similarly, in items 5, 15, 16, and 23, a specific author's name was not submitted, and the only reference to the author was "our correspondent" or "our reporter."

As stated above, a full English language translation that the translator has certified as complete and accurate, and the translator's certification that he or she is competent to translate from the foreign language into English must be provided for any document containing a foreign language submitted to USCIS. 8 C.F.R. § 103.2(b)(3). However, the petitioner only provided one certification from the translator that was supposed to certify all the articles that were not in English. On the bottom of each translation provided, the translator signed his or her name. However, each article was not certified, meaning that the certifications and translations were not complete for all the articles not written in English. Moreover, some of the preceding articles, such as items 1 and 7, appeared to be partial translations. In addition, no translations at all were provided for items 57, 61, 63, 65 and 67.

Moreover, many of the articles submitted by the petitioner were not written primarily about him. In large part, the articles were about the soccer games in which the petitioner's teams were participants. Often, the petitioner was only briefly mentioned as a team member. The petitioner's name also appeared in these articles when he scored goals or was able to otherwise influence the outcome of the game. However, his teammates names were mentioned for their contributions in these articles as well, and therefore the articles were not written primarily about him. Some examples of these articles that only briefly mention the petitioner include items 6, 7, 12, 14, 21, 22, 24, 26 and 30. Therefore, these articles fail to conform to the plain language of this regulatory criterion that requires the published materials to be "about the alien."

Finally, the evidence attempting to show that any of the preceding articles submitted by the petitioner were printed in professional or major trade publications or some other form of major media is also problematic. Many of the articles appear in regional papers rather than nationally or

internationally circulated publications. Regional coverage or coverage in a publication read by only a small ethnic segment of a country's total population is not evidence of national or international acclaim. Moreover, item 32 is an internet printout from www.kantipuronline.com, purporting to show that its site can be considered major media. However, the information provided concedes that the website is a new venture in its developmental stage, and therefore cannot be considered a professional or major trade publication or other major media. Moreover, items 45 and 46 were provided in an attempt to demonstrate that the *Annapurna Post*, *Samacharpatra* and Soccer Age Nepal are widely read or circulated publications or other major media. However, none of these letters actually provided specific information regarding these publications, like statistics regarding circulation, sales or other objective evidence.

Similarly, the petitioner failed to provide the source of the article for items 24, 55 and 62. In certain instances, e.g. items 5, 6, 9, 14, 19, 20, 24, 27 and 28, the source was either not visible on the original document provided (and in most cases was written on the article by hand) or was not translated. Therefore, as the petitioner was unable to provide independent evidence indicating a source in these examples, he was therefore also unsuccessful in proving such articles were published in professional or major trade publications or other major media.

In light of the above, the petitioner has not established that he meets this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The regulation at 8 C.F.R. § 204.5(h)(3) provides that "a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Evidence of the petitioner's participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). For example, judging a national competition for top soccer players is of far greater probative value than judging a local competition for youth or novices.

The petitioner initially provided a letter from [REDACTED], Principal of the Cardinal International Boarding High School, dated November 17, 2006. The letter indicated that he was offered a job as a sports teacher, and in that position he acted as an "astute judge to select talented kids for different competitions" and as a result they won many championships. In response to the RFE, the petitioner submitted another letter, undated, also from [REDACTED], who noted this time that the petitioner "was an outstanding soccer coach and a stellar member of our teaching staff in the year 2005." No new evidence relating to this criterion was provided on appeal.

The director, in his decision, found that judging the work of others is an inherent duty of a coach, and is not evidence of national or international acclaim. We agree with the director that the petitioner performed as a judge only in his capacity as a teacher/coach, and therefore failed to demonstrate that he has participated as a judge of the work of others in order to fulfill this criterion. Further, even if his selection of students for various competitions could be considered 'judging,' the record lacks evidence establishing the level of prestige associated with judging the students who were chosen for these competitions, their levels of expertise or other evidence that his judging was indicative of national or international acclaim as a soccer player or coach.

In light of the above, the petitioner has not established that he meets this criterion.

On appeal, counsel argues that the reference letters submitted on the petitioner's behalf are comparable evidence of the petitioner's extraordinary ability as a soccer player. The regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of "comparable evidence" only if the ten criteria "do not readily apply to the beneficiary's occupation." The regulatory language precludes the consideration of comparable evidence in this case, as there is no evidence that eligibility for classification as an alien with extraordinary ability as a soccer player cannot be established by the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3). Where an alien is simply unable to meet three of the regulatory criteria, the plain language of the regulation at 8 C.F.R. § 204.5(h)(4) does not allow for the submission of comparable evidence.

There is also no evidence showing that the documentation the petitioner requests re-evaluation of as comparable evidence constitutes achievements and recognition consistent with sustained national or international acclaim at the very top of his field. While reference letters can provide useful information about an alien's qualifications or help in assigning weight to certain evidence, such letters are not a substitute for objective evidence of the alien's achievements and recognition as required by the statute and regulations. The nonexistence of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, the classification sought requires "extensive documentation" of sustained national or international acclaim. *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing the statute provide that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Primary evidence of achievements and recognition is of far greater probative value than the opinions of one's acquaintances. Such evidence should be available to someone with sustained national or international acclaim who is within the small percentage at the very top of their field of endeavor.

In this case, the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's

achievements set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See, e.g., Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.