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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

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FILE:

[REDACTED]
LIN 07 067 50812

Office: NEBRASKA SERVICE CENTER

Date:

MAR 31 2009

IN RE:

Petitioner: [REDACTED]

Beneficiary: [REDACTED]

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:

[REDACTED]
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 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 that the petitioner had not established the sustained national or international acclaim required for classification as an alien of extraordinary ability.

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

(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.

Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend 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).

Initially and in response to a Request for Evidence ("RFE") dated February 1, 2008, the petitioner submitted excerpts from a book that she edited, pamphlets that she organized or prepared, a newsletter that she edited and contributed to, membership letters, news articles, an invitation to join Asia/Pacific Who's Who, award certificates, her curriculum vitae, information about the organizations with which she is or was involved, the Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW"), a diploma, event invitations, verification of university employment, certificates of election and appointment of political positions, and letters of recommendation. The evidence submitted, counsel's contentions, and the director's decision are

addressed in the following discussion of the regulatory criteria relevant to the petitioner's case. The petitioner does not claim eligibility under any criteria not discussed below.

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

The petitioner claimed eligibility under this criterion through her receipt of the Best Lady Jaycee of the Year award in 1982, the [REDACTED] award by the Nepalese Ministry of Home Affairs in 1996 (also referred to by the petitioner as the Silver Jubilee Medal), a certificate of participation with the Susma Koirala Memorial Trust in 1997, a certificate of participation in a seminar held by the Nepali Congress Central Communication Department in 1998, and a certificate of participation with a rally held by the Nepali Congress District Working Committee in 2002. The certificates of participation are not awards or prizes, but instead amount to recognition of the petitioner's involvement in the event. The petitioner submitted no evidence that participation in any of these events conveys national or international recognition.

As it relates to the petitioner's receipt of awards, on appeal, counsel states that the Best Lady Jaycee award demonstrates the petitioner's eligibility under this criterion because of an accompanying letter stating that the award is national in scope. This criterion, however, requires that the award be nationally or internationally *recognized* for excellence, not that it is awarded by an organization that is national or international or chooses the recipient from among a national or international pool. The petitioner submitted no evidence that the Best Lady Jaycee award recipient receives any sort of national or international recognition. For example, the petitioner did not submit secondary evidence, such as news articles or letters from sponsoring organizations, documenting the prestige associated with this award that would indicate its national or international recognition as an award for excellence in the field. Similarly, no evidence appears in the record about the Silver Jubilee Medal to indicate that it is a nationally or internationally recognized award or prize for excellence in the field. In addition, these two awards were given in 1982 and 1996, i.e. over a decade prior to the filing of this petition, so cannot evidence the requisite sustained acclaim in the field as required for this highly restrictive classification.

For all of the above reasons, the petitioner has not demonstrated eligibility under this criterion.

(ii) 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, a 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, proficiency certifications, 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. Furthermore, 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 submitted evidence of her membership in the National Women's Commission ("NWC"), which counsel states is the most highly recognized association in Nepal. The petitioner submitted the rules concerning the "Establishment and Formation of the Commission" which states that the King appoints

members of the NWC based on recommendations made by the prime minister, chief justice, opposition party leader, a high ranking woman in government, and the most senior member of Parliament. The recommendations for membership are made from a pool of women over 35 years old who have served in the area of women's rights for at least 10 years, and who do not have any criminal convictions. The membership criteria do not require that the nominee have made an outstanding achievement nor do they indicate that any of the political officials who decide the members of the NWC are national or international experts in the field of social work or women's rights. Moreover, it does not appear that the petitioner was a member of the NWC at the time of filing. 8 C.F.R. §§ 103.2(b)(1),(12); *Matter of Katigbak*, 14 I. & N. Dec. 45, 49 (Comm. 1971). Specifically, the record contains a letter from Youdha Shah, Acting Chief Secretary, dated April 2002 which indicates that the petitioner was appointed to the NWC on March 7, 2002. However, the rules submitted for the NWC indicate that the tenure of members "shall be two years." Accordingly, it appears that the petitioner ceased being a member in 2004, nearly three years prior to the filing of the petition.

The petitioner also submitted evidence of her membership in the Susma Koirala Memorial Trust, the Nepal University Teachers' Association, Amnesty International, the Research Board of Advisors of The American Biographic Institute, and the Central Policy and Program Committee of Nepal Women Association. She submitted evidence that she holds a leadership position with Amnesty International of Nepal and the Teachers' Association. The information submitted about these organizations does not indicate that membership is predicated upon outstanding achievement or that membership applications are judged by recognized national or international experts in the field. For example, even though the letter submitted from the Nepal University Teachers' Association states that the petitioner has made a "remarkable contribution to enhance academic activities" and has been actively involved, the letter does not state that those contributions or involvement were required for membership in the Association. Similarly, the information submitted about Amnesty International of Nepal states that the general membership votes on who will be a part of the executive committee; the information does not state that only those with outstanding achievements can either become a member of the body as a whole or of the executive committee, nor does it state that the general electorate is made up of recognized experts in the field. Instead, the website indicates that any Nepali citizen over age 16 and "committed to contribute to the advancement of mission of [Amnesty International]" can be a member. In addition, it does not appear that the petitioner was a member of NUTA or the National Executive Committee of Amnesty International at the time of filing. 8 C.F.R. §§ 103.2(b)(1),(12); *Matter of Katigbak* at 45. Specifically, the record contains a letter from Professor Bhupti Dhakal, president of NUTA, which indicates that the petitioner served as a member of NUTA from 1997-1999 and a letter from Krishna Pahadi, chairperson of Amnesty International Nepal, which states that the petitioner served on the National Executive Committee from 1997-1999. Accordingly, it appears that the petitioner ceased being a member well before the filing of her petition.

For all of the above reasons, the petitioner has not demonstrated eligibility under this criterion.

(iii) 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 regulation, 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. 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.¹

The petitioner claims to meet this criterion through articles appearing in *Nari Magazine*, *Manchitra Magazine*, and *Kumari Magazine*. First, the translations do not demonstrate that the entire articles were translated, as required by 8 C.F.R. § 103.2(b)(3). Instead, the petitioner has submitted only excerpts or abstracts of the articles. In addition, the translations do not include the author of the article's name as required by 8 C.F.R. § 204.5(h)(3)(iii). The plain language of this criterion requires both that the entire article be translated and that the translation include the author of the material. Second, the petitioner presented no evidence that any of these magazines constitute a professional or major trade publication or other major media. Counsel for the petitioner points to a letter issued by the Library of Congress to prove that these publications constitute major media, however, that letter relays the name of the publisher for *Nari Magazine*. The letter does not contain information attesting to *Nari Magazine* as major media such as, for example, by providing circulation or distribution numbers. The petitioner also submitted a letter from Gagadish Poudel of the Press Council Nepal, which states that the three magazines "fall almost under 'A' grade and wide [sic] circulated." This nebulous statement is insufficient to establish that any of the three publications constitute major media. Lastly, only the article appearing in *Manchitra Magazine* is properly considered under this criterion as the other articles were authored by the petitioner instead of being about her. Those other articles will be considered in the discussion of the petitioner's eligibility under criterion (vi) below.

Finally, although the petitioner also claimed eligibility under this criterion by virtue of her inclusion in the *Asia/Pacific Who's Who*, appearing as one of thousands, or even hundreds of other successful individuals in a frequently published directory is not evidence of published material about the petitioner in major media nor is it indicative of national acclaim.

Accordingly, the petitioner has not demonstrated eligibility under this criterion.

(iv) 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 petitioner claims to meet this criterion due to her service on the monitoring and evaluation team for the Social Welfare Council. Council claims in his brief on appeal that as "evaluate" can mean "judge," the petitioner's work "judging the outcomes and progress of the projects carried out by [this organization]" conveys eligibility under this criterion. First, neither the letter from the Social Welfare Council member secretary nor the Notice establishing the Social Welfare Council includes information about the petitioner's duties as part of the monitoring and evaluation team nor do either of these sources state that any member of the Social Welfare Council was engaged in judging any competition. Counsel for the petitioner highlighted certain passages of the Notice establishing the Council which state that the Council reviews project proposals sent by foreign governments, other organizations, and individuals trying to get government assistance. No evidence in the record indicates that the petitioner takes part in evaluating these project proposals nor is there evidence as to the criteria applicable to these project proposals to indicate how judging is to take place.

¹ 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.

The petitioner also claims to meet this criterion through her service on the interview board of Mahendra Multiple Campus (“MMC”), Tribhuvan University and the University’s “monitoring and evaluation team.” The letter from the Campus Chief of MMC indicates that members of the interview board were responsible for deciding who should be hired pending “approval from Tribhuvan University.” The letter from the Deputy Controller of the University stated that in her duties as a member of the “monitoring and evaluation team,” the petitioner conducted and monitored exams in the mid-western region in 2001. Evidence of the petitioner’s participation as a judge must be evaluated in terms of whether the judging position demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien’s field of endeavor. 8 C.F.R. § 204.5(h)(2). For example, judging a national competition for top scientists is of far greater probative value than judging a regional youth or student competition. According to the information provided, any decision made by the “judges” serving on the interview board was subject to approval by the University. The only evidence regarding how the interview board members were chosen indicates that “[t]he members are appointed on the basis of their performance and experience. Each member should have a minimum of 15 years of service to serve as an expert in the Board.” No evidence was submitted regarding how the petitioner was chosen for her position on the monitoring and evaluation team. Regardless, the fact that the petitioner judged the appointment of new teachers or that she monitored exams is not sufficient to demonstrate that the petitioner has judged the work of others in her claimed field of social work. Moreover, the petitioner’s service on this board and the evaluation team is not indicative of the sustained acclaim required for this classification as both occurred in the late 90s or early 2000s, at least 7 years prior to the filing of the petition.

For all these reasons, the petitioner has not established that she meets this criterion.

(v) Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

Initially, counsel cited the petitioner’s involvement in a variety of conferences held by nonprofit and philanthropic organizations. In response to the RFE, counsel explained that the petitioner made an original contribution of major significance through her participation in the international convention of CEDAW in 2004 and her subsequent advocacy of the issues contained in the Convention upon her return to Nepal. Without documentary evidence to support the claim that the petitioner was involved in a discussion about CEDAW at the convention or that she advocated for the adoption of CEDAW or its principles within Nepal, the assertions of counsel will not satisfy the petitioner’s burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I. & N. Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I. & N. Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I. & N. Dec. 503, 506 (BIA 1980). Further, participation in conferences either as a trainer or a student does not constitute a contribution as the petitioner did not show how such participation impacted her field as a whole.

The petitioner also submitted five letters of recommendation which we will consider in support of her claim for eligibility under this criterion. However, while letters of recommendation provide relevant information about an alien’s experience and accomplishments, they cannot by themselves establish the alien’s eligibility under this criterion because they do not demonstrate that the alien’s work is of major significance in her field beyond the limited number of individuals with whom she has worked directly. Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has achieved sustained national or international acclaim.

The letter from [REDACTED], the petitioner's sister and head of the [REDACTED], stated that the Trust "conduct[s] activities in the fields like sports, education and skill training for women" and that the petitioner "[took] the leadership of the organization and she stated working as a founder president with full enthusiasm." The letter from [REDACTED] of the NWC, stated that the petitioner "visited some fifteen districts, including some of the most remote" in her coordination of a "women's advancement and a prioritized action program" and that the petitioner "took care of all the case work of women who had been abused by their husbands, fathers, and in-laws, helping to register court cases and follow-up actions." The February 19, 2008 letter from [REDACTED] of Tribhuvan University, stated that the petitioner "conduct[ed] and monitor[ed] the Diploma Level Exams of the mid-western region in the year 2001" which was difficult due to the Maoist movement creating chaos during that time. [REDACTED], professor at Tribhuvan University, wrote in a February 27, 2008 letter that the petitioner has an "exceptionally high level of commitment, motivation, leadership and intellectual abilities" and that "[s]he tirelessly advocated and struggled for the rights of the marginalized and discriminated people, women in particular." [REDACTED], ambassador of Nepal, wrote that the petitioner "has . . . been recognized as a prominent women activist, who struggled for the human rights in Nepal." In doing so, the petitioner has "empower[ed] women in Nepal, whose social status has been lower in society owing to various reasons" and that she "has been meaningfully involved in social sector for more than 15 yrs." Although all of these letters speak highly of the petitioner's contribution to society through her social work and activism, they do not state that the petitioner made an original contribution of major significance to the field of social work such that the field of social work has changed as a result of the petitioner's actions.

The petitioner also claims that she helped author the Notice establishing the NWC, however, she submitted no evidence showing how she participated or what impact her actions had. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I. & N. Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I. & N. Dec. 190 (Reg. Comm. 1972)).

For all of the above stated reasons, the petitioner has not demonstrated eligibility under this criterion.

(vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner provided evidence that she wrote an article for and served on the Editorial Board of the *Voice for Justice* newsletter; wrote "Women Commission Usefulness and Effectiveness," which appeared in *Nari Magazine*; wrote an article entitled "Is Democracy in Danger?" which appeared in *The Weekly Mirror*; and wrote an article entitled "It's certain to become Woman Prime Minister in Future," which appeared in *Kumari Magazine*. As noted above, the petitioner submitted no evidence about any of these publications to show that they are professional or major trade publications or other major media. In addition, the petitioner did not show how these articles relate to her field of social work as the articles focus on politics and reports of events and other occurrences.

The petitioner also submitted evidence that she served as [REDACTED]; prepared the Organization Profile for the [REDACTED]; came up with the concept for the Chronicle of Events for the Women's National Festival; and prepared a booklet about the Trust's activities. She also submitted various pamphlets and indicated that she wrote or assisted with these pamphlets although they were not attributed to her. The petitioner presented no evidence that any of these pamphlets appeared in professional or major trade publications or other major media.

The petitioner submitted papers entitled “The Role of Civil Society for Good Governance and Peace” and “People in Good Governance Planning in Regional Basis: Strategic, Mechanism and Implementation” however, these “extractions” are not accompanied by certified translations as required by 8 C.F.R. § 103.2(b)(3), so we are unable to evaluate these documents. She also submitted a draft of her paper “A Celebration of Global Imagination: Listen to the Future.” The petitioner submitted no evidence to show that this paper was ever published or that it otherwise appeared in professional or major trade publications or other major media. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. 8 C.F.R. § 103.2(b)(1),(12); *Matter of Katigbak* at 49. Counsel claimed in the response to the RFE that the petitioner met this criterion by virtue of her assistance in writing the Notice establishing the NWC. First, this Notice was not attributed to the petitioner. Second, the petitioner submitted no evidence that the Notice was published in any professional publication or other major media.

For all of the above reasons, the petitioner has not demonstrated eligibility under this criterion.

(viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

To meet this criterion, a petitioner must establish the nature of her role within the entire organization or establishment and the reputation of the organization or establishment. Where an alien has a leading or critical role for a section of a distinguished organization or establishment, the petitioner must establish the reputation of that section independent of the organization itself.

The petitioner claimed eligibility under this criterion by virtue of her participation with the NWC, the Nepali Congress Party, the Shanker Memorial Trust, as the Environmental Advisor to the Mayor of Nepalgunj Municipality, as coordinator of the Midwest region of the Nepal Women Association, as a lecturer with Mehendra Multiple Campus of Tribhuvan University, and as vice president of the Cricket Association of Nepal (“CAN”). As stated above, the petitioner presented no evidence which demonstrates that her work in politics or in the English department at the University relates to her field of social work. On appeal, counsel states that the petitioner’s involvement with CAN fits within the general definition of social work because of her nomination to a position with a high profile as a woman and because sports generally improve the lives of people. This tenuous connection asserted by counsel is insufficient to show any true connection between CAN and social work as almost any organization with almost any purpose could be considered social work under counsel’s definition. The petitioner did not present any objective evidence that her nomination to a position within CAN actually increased the visibility of women or in any other manner aided people’s lives or improved the standing of women within the country.

Even assuming that the petitioner’s work with these political organizations relates to her field of social work, she did not present evidence that these organizations enjoy distinguished reputations. No evidence was included regarding any of these organizations’ backgrounds, standing in the community or world, or any other aspect of their reputations. On appeal, counsel stated that the political party, CAN, and the NWC are national organizations and that the NWC members are handpicked by the Nepali government. Counsel points to a February 8, 2004 letter from [REDACTED] as evidence of the NWC’s reputation. While this letter provides relevant information, it cannot by itself establish the alien’s eligibility under the criterion because it does not demonstrate the author’s knowledge of the Council reputation independent of her work with the petitioner. As

previously indicated, even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence. The petitioner did not submit any documentation from independent sources regarding the reputation of the Council, CAN, or the Nepali Congress Party.

In addition, the petitioner failed to submit evidence showing that she played a leading or critical role with any of these organizations. The letter from [REDACTED] states that the petitioner “was by far the most competent” Council member and that [REDACTED]’s aims were achieved through the petitioner’s cooperation including by helping to recover a woman who had been kidnapped by her family for marrying a second time and helped with a consulting initiative with the Canadian government. This letter does not state how these initiatives further the purpose of the Council or otherwise constitute a leading or critical role for that organization as opposed to [REDACTED]’s role as head of the Council. Similarly, the petitioner presented evidence of several positions that she held with the Nepali Congress Party, but she submitted no evidence regarding the committees with which she was affiliated or how her role with those committees served as a leading or critical role for the political party as a whole. Presumably, the Party has a variety of committees with a variety of members; the petitioner submitted no evidence differentiating herself from the other committee chairs or officers of the overall Party. The letter from [REDACTED] stated that the petitioner helped to set up the Trust and its works and that the Trust would not have been as successful without the help of the petitioner. The petitioner presented no evidence regarding her role with any of the other organizations.

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

(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

On appeal, the petitioner claims to meet this criterion by virtue of her salary of \$24,058.73 as compared to the United States State Department Country Profile which states that the per capita income for Nepal in 2005-06 was \$322. The plain language of the criterion requires that the petitioner show that she receives a high salary in relation to others in her field. Therefore, the annual per capita income displayed in the State Department report is irrelevant even if that information had been included in this record. The petitioner included no evidence regarding how much other social workers earn per annum or any other evidence to demonstrate how her annual salary compares to other social workers in Nepal so as to demonstrate that her stated salary is considered significantly high in relation to others in her field. It is further noted that nearly 1/3 of the petitioner’s stated salary is attributed to her employment as a lecturer at Tribhuvan University. The remainder of her salary is made up of “consultancy fees,” “tuition fees,” and “project assignments.” It is unclear from this breakdown, which, if any part of her salary is actually related to her claimed field of social work.

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

Review of the record does not establish that the petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner’s achievements set her significantly above almost all others in her 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 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.