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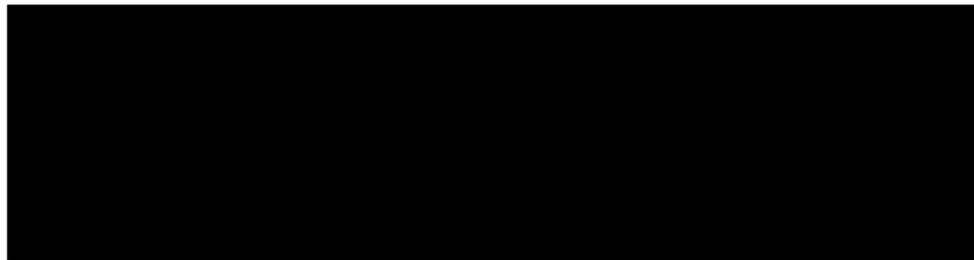
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: OCT 07 2010

IN RE: Petitioner: [REDACTED]

Beneficiary: [REDACTED]

PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is a Hindu temple. It seeks to classify the beneficiary as a nonimmigrant religious worker under section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1), to perform services as a pujari. The director determined that the petitioner had not established that the beneficiary had been a member of its religious denomination for two full years immediately preceding the filing of the petition and that the beneficiary was qualified for the proffered position.

On appeal, the petitioner states that the director erred by questioning or ignoring credible evidence. The petitioner submits additional documentation in support of the appeal.

Section 101(a)(15)(R) of the Act pertains to an alien who:

- (i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and
- (ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).

Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii), pertains to a nonimmigrant who seeks to enter the United States:

- (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
- (II) . . . in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or
- (III) . . . in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation

The first issue is whether the petitioner has established that the beneficiary was a member of its religious denomination for the two years immediately preceding the filing of the visa petition.

The regulation at 8 C.F.R. § 214.2(r)(1) provides that:

To be approved for temporary admission to the United States, or extension and maintenance of status, for the purpose of conducting the activities of a religious worker for a period not to exceed five years, an alien must:

- (i) Be a member of a religious denomination having a bona fide non-profit religious organization in the United States for at least two years immediately preceding the time of application for admission.

The petition was filed on June 25, 2009. Therefore, the petitioner must establish that the beneficiary was a member of its religious denomination for the two years immediately preceding that date.

With the petition, the petitioner submitted a copy of a December 1, 2002 letter from the [REDACTED] in India, attesting that the beneficiary had completed training as a pujari at the organization's School of Hindu Studies. The petitioner also submitted a copy of the beneficiary's December 2, 2002 certificate from the school.

In a request for evidence dated August 20, 2009, the director, apparently quoting from an unnamed source, instructed the petitioner to:

Provide evidence that the beneficiary has completed a two-year membership in the Hindu religious denomination or organization. Evidence may include ordain [sic] records, evidence of confirmation, certificates of participation, awards given, titles conferred, attendance records, contribution records, congregational affirmation of faith, etc. . . .

Submit evidence showing that the membership is recognized or governed or administered under a common type of ecclesiastical government or a common code of doctrine and discipline. Evidence may include a copy of the organization's constitution, by-laws, manuals, published procedures, . . . etc. . . . showing the procedure and requirement to acquire membership.

In response, the petitioner stated that the beneficiary had been a member of its organization since his early childhood, and resubmitted the December 1, 2002 letter from [REDACTED] in India and a group picture that it stated included the beneficiary of attendees at a 2007 youth training convention.

The director denied the petition, finding that the letter from [REDACTED] in India was insufficient to establish the beneficiary's membership as the petitioner failed to provide a school transcript or other evidence of the beneficiary's membership in the denomination. On appeal, the petitioner submits a November 2, 2009 certificate from [REDACTED] in which he states that he is a Sadhu-Hindu monk and that he "performed the Swaminarayan fellowship 'vartman' (initiation) to" the beneficiary in 1990. The petitioner also submits other documentation

purportedly regarding the beneficiary's membership in the denomination; however, the translations accompanying this documentation do not comply with the provisions of provisions of 8 C.F.R. § 103.2(b)(3) in that the translator is not identified, did not certify that the translation was complete and accurate, and did not certify that he or she is competent to translate from Gujarati into English. Because the petitioner failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

Nonetheless, we find that the petitioner has submitted sufficient documentation to establish that the beneficiary was a member of the petitioner's denomination for two full years immediately preceding the filing of the visa petition. We therefore withdraw this determination by the director.

The second issue is whether the petitioner has established that the beneficiary is qualified for the proffered position.

As discussed previously, with the petition, the petitioner submitted a copy of a letter from BAPS in India and a copy of a certificate indicating that the beneficiary had completed studies at the School of Hindu Studies and was awarded a diploma as a pujari. According to the petitioner's documentation, the pujari is responsible for "overseeing and carrying out the various ceremonies that are performed before sacred images" including the ritual lighting of lamps and waving them before the sacred images, the ceremony to wake up the Lord, a ceremonial recitation of the divine actions, physical features, and unique characteristics of God, recitation of sacred pages from the Vedas, offering food to the Gods, "crematorial services" and "various sacred rituals" such as various offerings to God and ritual baths for the sacred images.

The director did not address this issue in her RFE. In denying the petition, however, she noted that the petitioner's documentation indicated that "requirements for a person to serve as a Purjari include both a certification and a letter from an authorized official, and that the petitioner "only submitted a letter."

On appeal, the petitioner states that the director misunderstood the certification requirement and that the letter constitutes certification. According to the petitioner, "The letter and certification are not two separate documents but rather one and the same. So long as the letter is certified (i.e. signed) by a designated authority, the letter should be considered the certification."

The record reflects that the petitioner submitted not only a letter attesting that the beneficiary had completed studies to become a pujari but also a certificate of completion. The petitioner states on appeal that the School of Hindu Studies does not operate on a grade or pass/fail system but rather on a system that customizes training for the student's future vocation. The petitioner submitted no documentation to corroborate these statements. 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)).

Nonetheless, we find that the record sufficiently establishes that the beneficiary is qualified for the proffered position.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has met that burden.

ORDER: The appeal is sustained.