

IMMEDIATE

F.No.6 (29)/2008-BE
Government of India
Ministry of Commerce and Industry
Department of Industrial Policy and Promotion

Udyog Bhavan, New Delhi-110-011

Dated the 20th August, 2009

Subject:-Grant of Visa to foreign nationals on Project based assignments.

This is to inform that various industries/ organizations have been seeking clarifications from the Government regarding Visa provisions for foreign personnel coming for execution of projects/contractual works in India.

2. In this context, the matter has been carefully examined and the following clarifications are hereby communicated:-

- (1) Business Visas should be issued only to a foreign businessman who wants to visit India to establish an industrial/ business venture or to explore possibilities to set up industrial business venture in India or wants to purchase/ sell industrial products strictly as per the norms specified in the Visa Manual for Business Visas.
- (2) Foreign nationals coming for executing projects/ contracts in India do not fulfill the conditions laid down for grant of Business Visa. Hence, Business Visas will not be granted to such foreign nationals.
- (3) All such category of foreign national coming for executing projects/ contracts will have to come only on Employment Visa. Grant of Employment Visa should be in strict conformity with the provisions in the Visa Manual, salient points of which *Inter alia* include:-
 - (a) Employment Visa should be granted only for skilled and qualified professional or to a person who is being engaged or appointed by a company, organization, and industry or undertaking etc. In India on contract or employment basis at a senior level, skilled position such as technical expert, senior executive or in managerial position etc.
 - (b) Request for Employment Visas for jobs for which a large number or qualified Indians are available should not be considered.
 - (c) Under no circumstances, should an Employment Visa be granted for routine, ordinary, or secretarial/ clerical jobs.
- (4) Such foreign nationals who are already in the country on Business Visa and engaged in executing project/ contacts should leave the country on expiry of their existing visas or within a period of 3 months i.e. by 30.9.2009 (by which time the visa validity will expire), whichever is earlier. No extension will be granted. If they are required to come again, they must apply to the Indian Missions for appropriate Visa. As stated in (3) above, grant of Employment Visa be in strict conformity with the provisions in the Visa Manual

- (5) MEA would send an advisory to the Indian Missions located in the neighboring countries advising them not to grant Business Visas to such foreign nationals, who are coming for executing projects/ contracts in India. Special care be taken where the applicant's earlier Business Visa was issued by some other Indian Mission in another country.
- (6) The Employment Visa must be issued only from the country of origin.
- (7) The Indian Company/ Organisation engaging foreign nationals for executing projects/ contracts would be responsible for the conduct of the foreign national during their stay in India and also for the departure of such foreign national upon expiry of visa.
- (8) All pending application in the Missions for grant of Business Visa for executing projects/ contracts should be returned to the applicants and they should be asked to apply for Employment Visa.
- (9) The proforma for seeking security clearance for grant of Employment Visa for Chinese nationals was approved with the following additional field of information to be incorporated in the proforma:-
 - (d) Educational qualification and the present job to be included in Part-I.
 - (e) Nature of the job proposed to be performed in India to be included in Part-II.
- (10) The proforma may be sent to the Indian Missions/ Posts in China with the clear direction that the certifying official should ensure strict adherence to the Employment Visa requirements as provided in the Visa Manual while sending the particulars to Foreigners Division, MHA.
- (11) The Indian Missions/ Posts in China would send the requisite particulars in the prescribed format by fax to MHA. (Foreigners Dn.) The Indian Company/ Chinese Company while submitting the visa applications to the Indian Mission/ Posts in China would simultaneously forward copies of the applications to MHA.
- (12) The clearance/ rejection would be furnished by MHA (Foreigners Dn.) within an outer time limit of 60 days from the date of receipt of the details in the prescribed proforma. In order to rationalize the time taken for grant of security clearance, immediately on receipt of the details in the prescribed proforma, MHA (Foreigners Dn.) would send the proposals to IB for security clearance within one week and IB would furnish their comments preferably within 15 days of receipt of the proposal by them so that response of MHA to the Employment Visa applications can be sent to the Indian Missions/ Posts in China at the earliest.
- (13) MHA would also forward copies of the applications for Employment Visa to the Ministry of Labour who would convey their clearance/ rejections of the same within 45 days.

(14) MEA will advise Indian Mission/ Posts in China to send the complete details of Business Visas granted to Chinese nationals for the purpose of executing projects/ contracts in India w.e.f. 1.1.2008 which would inter alia convey the name of the Indian Company which engaged the said Chinese national, name of the person, validity date of Visa, educational qualifications etc. On receipt of these details, it would be forwarded to IB for verification as to how many of these Chinese nationals who have come on Business Visas for executing projects/ contracts are overstaying.

(15) All Industries/ FICCI/ CII etc. should be sensitized on all these aspects explained as above.

3. You are requested to give wide publicity to all your member industries/organisations for strict adherence to ^{the} points mentioned above. This Department will convene a meeting shortly with Apex Organisations for further discussions on the subject.

4. Receipt of the letter may kindly be acknowledged.


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