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UPDATE ON INDIAN THREE–YEAR DEGREES AND POSTGRADUATE DIPLOMAS

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The greatest bane for green card aspirants with Indian degrees is the uncertainty that they will be recognized as single source degrees. If an Indian degree is recognized as the single source equivalent of a US four-year bachelor's degree, it can provide the basis for an I-140 immigrant visa petition under the employment-based second preference (EB-2) for permanent residency. If an Indian degree cannot be recognized as a single source four-year degree, the potential green card candidate slides into the employment-based third preference (EB-3). While both the India EB-2 and EB-3 are moving at a snail's pace, there is still a dramatic difference between the EB-2 and EB-3 for India. One sponsored by an employer in the India EB-2 can hope to get a green card within 10 years, but one caught in the India EB-3 would need to wait for several decades!

A three-year Indian degree on its own will never make it into EB-2 as it is not considered the equivalent of a four-year US degree. *See Matter of Shah*, 17 I&N Dec. at 244 (Reg. Comm. 1977). Till recently, even a three-year degree combined with a post-graduate diploma (PGD), even if technically equivalent to a US bachelor's degree, was not considered a single source degree. To be classified under the EB-2 pursuant to section 203(b)(2) of the Immigration and Nationality Act, the position must require an advanced degree or its equivalent, which the USCIS in 8 CFR section 204.5(k)(2) defines as a foreign four-year single source bachelor's degree equivalent to a US degree plus five years of post baccalaureate experience. Ron Wada, who is the undisputed guru of degree equivalency issues, reports that in some instances the USCIS has been recognizing that an Indian three year degree followed by a post graduate diploma may qualify as an exception to the "single-source degree rule." *See* Wada, *The Nth Degree: Issues and Case Studies In Degree Equivalency – 2015*

Update, 20 Bender's Immigration Bulletin 475, May 15, 2015.

Not all combinations of three-year bachelor's degrees and post graduate diplomas will qualify under this exception and thus be found to be comparable to a US bachelor's degree. The Electronic Database for Global Education (EDGE) created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO) has to confirm that the PGD should either be issued by an accredited university recognized by the University Grants Commission or should be an institution approved by the All-India Council for Technical Education (AICTE).

In most of the unpublished decision of the Administrative Appeals Office (AAO) involving non-university PGDs found through a computerized search, such as for example *Matter of X* (*identifying information redacted*), 2013 Immigr. Rptr. LEXIS 2177, 2013 WL 5296297 (INS), the following extract is worth noting:

According to EDGE, a three-year Bachelor of Science degree from India is comparable to "two to three years of university study in the United States." EDGE further discusses postgraduate diplomas, for which the entrance requirement is completion of a two- or three-year baccalaureate degree. EDGE states that a postgraduate diploma following a two-year bachelor's degree represents attainment of a level of education comparable to one year of university study in the United States. EDGE also states that a postgraduate diploma following a three-year bachelor's degree represents attainment of a level of education comparable to a bachelor's degree in the United States. However, the "Advice to Author Notes" section states:

Postgraduate Diplomas should be issued by an accredited university or institution approved by the All-India Council for Technical Education (AICTE). Some students complete PGDs over two years on a part-time basis. When examining the Postgraduate Diploma, note the entrance requirement and be careful not to confuse the PGD awarded after the Higher Secondary Certificate with the PGD awarded after the three-year bachelor's degree.

The evidence in the record on appeal did not establish that the beneficiary's postgraduate diploma was issued by an accredited university or institution approved by AICTE, or that a two- or three-year bachelor's degree was required for admission into the program of study

This AAO decision demonstrates that not only must the PGD be approved by

AICTE, but the entrance requirement for a PGD must also be after the completion of a two or three year bachelor's degree, and not after the completion of high school.

Not all PGDs will qualify and one must carefully check whether it has been recognized by AICTE. For instance, courses at the ever familiar NIITor Aptech institutes in India are not approved by AICTE. Nor are most of the programs offered at the Center for Development of Advance Computing (CDAC), unless the CDAC courses are offered in conjunction with universities and result in degrees. It is very important to get the PGD assessed by an experienced credential evaluation service, which should check that the PGD has not only been recognized by AICTE but admits students after they have generally completed a three-year degree.

The USCIS has always been niggardly in recognizing Indian degrees, especially three-year degrees, so as to qualify under the EB-2. The recent recognition of some non-university PGDs, obtained after a three year degree, provides some respite to many who would otherwise be caught in the endless India EB-3 backlogs. A recent Times of India article reveals that India Inc. invested $15 billion in the United States and created 91,000 jobs. Despite this enormous boost to the US economy, Congress has done nothing to reduce the EB-2 and EB-3 backlogs for India, and the USCIS has been slow to recognize that Indian degrees, or combinations, equate to comparable US four-year degrees. The recognition of certain PGDs following a three-year degree program is therefore welcome, but the USCIS must still go a long way in being more generous in welcoming skilled Indian nationals to the United States.

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