

**METROS**

Silicon Valley  
New York/New Jersey  
Chicago  
Los Angeles  
Washington DC

**CHANNELS**

TechBiz  
Immigration  
Travel  
Hospitality  
Health Science  
Youth  
Women  
Astrology  
Editorial  
Matrimonials  
Classifieds

**INDIA**

National News  
Business  
Sports  
Bollywood

You are here:

[Home](#): Lawsuit challenges green card delays

Published: 2003-12-25

**Lawsuit challenges green card delays**

N.C. SRIREKHA

© India Post News Service

NEW YORK: The online community at ImmigrationPortal.Com, along with other individuals, has filed a lawsuit against United States Immigration and Citizenship Services (earlier known as Immigration and Naturalization Services), challenging the delays in processing of some applications for employment based immigrants. The suit, filed December 22 in the United States District Court, Washington DC, is against the Department of Homeland Security, the USICS, various USICS service centers in the country, the Attorney General and others and seeks injunctive reliefs.

According to Rajiv Khanna, counsel for the plaintiffs, the complaint stemmed from the extraordinary delays in completing green card processing leading to much distress and harm in the community considering the overall process can take six years or more.

The Complaint notes: The process of obtaining employment based US Lawful Permanent Residence ("green card"), especially for Labor Certification based cases has become egregiously dilatory over the past few years. The delays in the process have now come to the point where in States like New York and California it can take six years or more to obtain a green card. In the interim, an employee is left with continuous dread and insecurity. Loss or diminishment of employment almost invariably means abrupt uprooting of years of life and career built in this country. In most cases, USCIS practice permits not even one day of grace period to arrange for passage out of USA - a state of affairs long way from the constitutional ideal of "...pursuit of happiness."

Additionally, for labor certification based cases, which form a large majority of employment-based applications, any substantial career advancement is unwise. A promotion leads to nullification of the entire green card process, thereby necessitating starting the process all over again - resetting the six-year countdown back to zero. Thus, an employee is required to continue at the same job level year after year.

The complaint further notes: The Defendants have administered immigration laws by ad-hoc memoranda and unwritten policy rather than by regulation. Several laws remain inexactly implemented without regulations by the agencies for years. The will of Congress, articulated in various ameliorative statutes, has been thwarted by the lack of regulations leading to an atmosphere of uncertainty for employees. Under INA, the employment-based category is divided into five preferences or groupings. The highest priority goes to first employment-based "priority workers" who consist of: a) Aliens with extraordinary ability; b) Outstanding professors and researchers; and c) Certain multinational executives and managers subject to international transfer to the United States.

The second employment-based preferences include professionals holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit the national economy, cultural or educational interests, or welfare of the United States.

The third employment-based preferences include certain professional, skilled and unskilled workers, where qualified workers are not available in the United States. The fourth employment-based preference includes certain special immigrants, including ministers of religion.

The fifth employment-based category includes alien investors who create or maintain at least ten jobs in USA, none of which can be for their own family members.

All of the above categories of workers are severely affected by the inordinate delays in processing and have accordingly filed the present lawsuit.

The community had made several concerted efforts to redress this problem through the government and the legislature. Thousands of people signed several petitions, but no action has been taken by the government so far, the plaintiffs aver.

The community of immigrants and immigration benefits applicants congregating at [www.immigrationportal.com](http://www.immigrationportal.com) currently involves over 67,000 registered members and approximately five times as many unregistered participants.

"We are the largest immigration community in the world," says Rajiv Khanna. "We

want to meet  
someone ?Work  
An Hour  
www.workanhour.com

ASHA FOR EDUCATION

SHOP  
'N'  
GIFTsend Gifts  
for your  
loved one

anywhere in

India, US, UK  
Canada, Fiji  
Europe, NZ

PayPal

want to draw the attention of US Congress and USCIS (US Citizenship and Immigration Services) to the excruciatingly slow progress of the Immigration benefits like Application for Adjustment of Status (I-485) and Application for Naturalization (N-400)."

Until 2002, most of the legacy INS' service centers with the exception of Texas service center, adjudicated the employment based I-485 applications and N-400 Naturalization applications in under 12 months. But with the introduction of additional security checks, combined with the shortage of staff at USCIS service centers, the I-485 application processing time has now increased to more than 20 months at all the service centers and at Texas Service Center more than two years and N-400 Naturalization application processing time has increased to more than one year. What is alarming is, the processing time delays are worsening each month.

A petition submitted to legislators notes that these severe processing delays are affecting the lives of immigration benefits applicants in their lives such as marriage, home ownership, education for children and general well-being, since everything has to be put on hold till such time as the green card is approved. Career advancement has been hampered since the applicant has to remain with the same respective employer (or) similar job in order to benefit from this adjustment of status. The majority of the employers have taken advantage of these restrictions, created by the severe processing delays. Such restrictions again are impacting the livelihood of not only immigration benefits applicants but also the company they work for.

The petition pointed out that in the past few years, the legacy INS / DHS has utilized the majority of the funds appropriated by US Congress for immigration towards immigration enforcement instead of towards immigration benefits providing services to the law-abiding tax paying immigrants and residents who paid the fees to legacy INS/DHS/BCIS/USCIS to have their applications and petitions for immigration benefits adjudicated in a timely manner.

Diverting immigration benefits funds towards immigration enforcement reduced the amount spent on processing the immigration benefits applications, which resulted in huge backlogs for immigration applications, and naturalization applications, and these backlogs are already out of control, the petition further said.

Under the Immigration Services and Infrastructure Improvements Act of 2000, it is required that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application.

Also, in 2000, President Bush made a pledge to reduce the Immigration and Citizenship processing times for all types of applications to less than 180 days. The President also promised to allocate \$500 million over a period of five years to achieve a six-month immigration benefits application processing time by the end of 2006.

However, Congress has not allocated that fund in the current budget to reduce the backlog. While Congress has set 2006 as the target year for USCIS to achieve these results, the current applicants are in desperate need of an interim solution to address their immediate concerns, the petition explains.

Outlining the immense contribution of immigrants to the American economy, the petition said under current immigration levels, the US labor force would grow by 40 percent between 1995 and 2050 according to the National Academy of Sciences, which is possibly inadequate. "The immigration inflow is required to reinforce the US labor force. The admission of immigrants with high skills will benefit the American society," it said.

The Bureau of Labor statistics (BLS) projects the total employment over the 2000-2010 period to increase by 15 percent and during the same period the various computer related jobs are expected to grow by about 60 to 100 percent, science and engineering jobs are expected to grow by about 40 to 60 percent, health care related jobs are expected to grow by about 24 to 57 percent and education related jobs are expected to grow by about 13 to 24 percent. The continued success of the United States largely rests upon its successful pro-immigration policy, according to the petition.

---

More stories in this category

[The Caged Liberator](#)

[India finish second at Afro-Asian Games](#)

---



Copyright 200, Post Media Group.  
design and programming by vk studios.com