

From

23.04.2013

N. Sreenivas  
No. 170, St. Marks Avenue  
S. Sivaswamy Salai,  
Mylapore,  
Chennai - 600 004.

To  
The Central Public Information Officer  
Foreigners Division  
Ministry of Home Affairs  
Jaisalmer House, Man Singh Road  
New Delhi.

*on leave*

Sir

Sub: Information sought under Right to Information Act, 2005.

I would like to obtain some information under Section 6 of the Right to information Act, 2005. I am herewith enclosing the necessary fees of Rs.10/- in the form of Demand Draft No. 352649 drawn in SBI Chennai dated 23.04.2013 in favour of Accounts Officer, Ministry of Home Affairs, New Delhi.

Please refer to the MHA's (Foreigners Division) Office Memorandum No.25022/02/2012-F-I dated 14.03.2013 addressed to JS, Dept. of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture and provide the following information under RTIA:

The question of whether the foreign fishing crew members engaged on DSFVs operating in the EEZ require Employment Visa was discussed and deliberated in many joint meetings hosted by MHA (Foreigners Division) in the last two years. Finally it has been understood and accepted by MHA also that Employment Visa is not required as the foreign nationals would not be coming to the shore as per letter No.25022/50/2009-F-I dated 14.11.2011.

The D.O of MOA referred in the MHA's O.M dated 14.03.13 is a request and reminder from JS, MOA to JS, MHA to clear the pending applications for security clearance. However the O.M issued by MHA maintains the subject as 'Employment Visa to foreign crew' and prescribes conditions for grant of Employment Visa. No mention about security clearance at all in the O.M.

1. Please clarify whether the foreign fishing crew members engaged on DSFVs operating in the EEZ outside territorial waters require Employment Visa or Security Clearance?
2. Whether the percentage of foreign crew should be restricted to 10-15% (from existing 75%) for grant of Employment Visa OR Security Clearance?
3. Whether MHA's grant of relaxation from minimum salary condition of US\$ 25,000 per annum is for grant of Employment Visa OR Security Clearance to foreign fishing crew?
4. When the policy of nodal ministry for fisheries is different on issues like percentage of foreign crew and phasing out program, what is the rational or justification for MHA to reduce the percentage and fix the deadline for phasing out without considering ground realities?

Thanking you

N.Sreenivas

*WS(F)*

*V. V. V. 3/5*

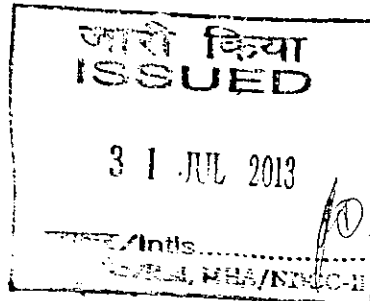
*3/5/2013*  
*07/5/2013*  
*SLP*

RTI/55/2013-F-1  
 GOVERNMENT OF INDIA  
 Ministry of Home Affairs  
 (Foreigners Division)

NDCC-II Building, Jai Singh Road,  
 New Delhi-110001, the 31<sup>st</sup> July, 2013

To

Shri. N. Sreenivas,  
 N.120, St. Ebbas Avenue,  
 P.S. Sivaswamy Salai,  
 Mylapore  
 Chennai-600004



31 JUL 2013

**Subject: - Appeal under the RTI Act, 2005**

Sir,

Please refer to your RTI Appeal dated 05.05.2013 received by the office on 17.06.2013.

2. I have looked into your RTI Appeal. Regarding the issues raised in your RTI Appeal, the position is as follows :-

(1) As regards your 1<sup>st</sup> question, it may be stated that in terms of provision contained in Section 3 (1) of Foreigners Act, 1946, the Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into India or their departure therefrom or their presence or continued presence there-in. It is thus evident that in terms of the above mentioned provisions, Central Government is vested with powers to prohibit/regulate entry of foreigners into India. Keeping in view the defence and other vital installations in the territorial waters and EEZ, security clearance from the Ministry of Home Affairs for the crew of Deep Sea Fishing vessels is considered absolutely essential.

It was also observed that the foreign crew of DSFVs come without any proper travel document. Keeping in view the security concerns expressed by the Security Agency, it was decided with the approval of competent authority that such foreign crew employed on DSFVs should come on proper travel document i.e. an Employment Visa. For grant of Employment Visa, there is a minimum salary condition of US \$ 25,000 per annum

In view of the position stated above, a decision was taken with the approval of the competent authority that the foreign crew to be deployed on DSFVs should be restricted to 10-15% of the total crew and to grant relaxation from the minimum salary condition of US\$ 25,000 per annum for grant of Employment Visa to this foreign crew ( restricted to 10-15% of total crew) for the period upto 31.12.2013 and that the foreign crew may be replaced by Indian crew by 31.12.2013. These instructions were issued on 14.3.2013.

(2) As regards your 2<sup>nd</sup> and 3<sup>rd</sup> question, it may be stated that security clearance granted by MHA is always limited to the actual number of foreign crew who are to be granted 'E' visa. In view of the position stated in (1) above, it is quite obvious that the grant of security clearance to the foreign crew engaged on DSFVs will be restricted to 10-15% of the total crew deployed. The instructions

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issued on 14.3.2013 by the Ministry of Home Affairs conveyed the policy decision regarding grant of E visa to foreign crew employed on DSFVs. Processing of individual cases for grant of security clearance will be governed by the policy decision conveyed vide the instructions dated 14.3.2013. Thus CPIO has rightly stated that the conditions mentioned in the Ministry's instructions dated 14.3.2013 are applicable to both security clearance and grant of 'E' visa to foreign crew of DSFVs.

(3) Entry of foreign nationals is regulated by the provisions of the Foreigners Act, which is administered by the Ministry of Home Affairs. It is thus evident that issue of instructions/guidelines in this regard is within the purview of Ministry of Home Affairs. CPIO has therefore rightly stated that policy issues relating to grant of employment visa and security clearance is within the purview of Ministry of Home Affairs.

Yours faithfully,

  
(V. Vumluhphang)

Joint Secretary (Foreigners) and Appellate Authority

*P. V. Sivaraman (P)*  
*17/6*

(8)

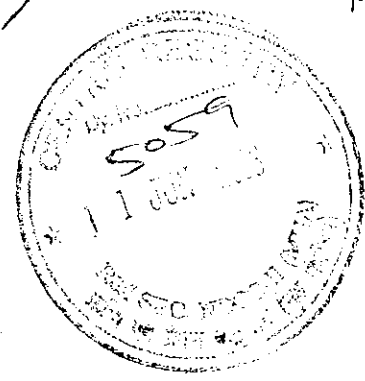
(8)

5<sup>th</sup> May 2013.

From  
N. Sreenivas  
No. 120, St. Ebbas Avenue  
P.S. Sivaswamy Salai  
Mylapore  
Chennai 600 004.

To  
The Joint Secretary (Foreigners)  
& Appellate Authority  
Ministry of Home Affairs  
Foreigners Division  
NDCC-II Building  
Jai Singh Road  
New Delhi.

*JSCFA* → *as per*  
*consultant/19*



*As*  
*17/6*  
*US/13*  
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*12*

Respected Sir

*2254/US/P/13*  
*19/6*

Sub: Appeal against information submitted CPIO.  
Ref: My application dated 23.04.2013 and  
Your reply (RTI-55/2013-F-1) from MHA dated 31 May 2013.

I sought some specific information from CPIO related to clearance formalities of the foreign fishing crew members engaged on DSFVs operating in the EEZ.

I am not satisfied with the information provided by Sri P.V. Sivaraman, Director (Foreigners) & CPIO since there is no clarity in most of the information provided. Hence I preferred this appeal.

**My first question**

1. Please clarify whether the foreign fishing crew members engaged on DSFVs operating in the EEZ outside territorial waters require Employment Visa or Security Clearance?

**Information provided**

It may be stated that the foreign fishing crew members engaged on deep sea fishing vessels operating in EEZ outside territorial waters require security clearance from MHA.

**Reason for dissatisfaction**

Being the nodal ministry for security of the country, the concerned officer is not expected to make a simple and vague statement that foreign fishing crew members referred above require security clearance from MHA. **He is supposed to quote relevant statutory provisions justifying his statement.**

**My second and third questions**

2. Whether the percentage of foreign crew should be restricted to 10-15% (from existing 75%) for grant of Employment Visa OR Security Clearance?

- (OR)
3. Whether MHA's grant of relaxation from minimum salary condition of US\$ 25,000 per annum is for grant of Employment Visa OR Security Clearance to foreign fishing crew?

**Information provided**

- (i) The foreign crew to be engaged on the DSFVs should be restricted to 10-15% of the total crew.
- (ii) To grant relaxation from minimum salary condition of US\$ 25,000 per annum for grant of Employment Visa to foreign crew limited to 10-15% of the total crew for the period till 31.12.2013.

The conditions mentioned above are applicable to both Security Clearance and grant of 'E' Visa to foreign crew DSFVs.

**Reason for dissatisfaction**

CPIO relied on instructions issued on 14.03.2013 by MHA for providing the above information. However in the O.M dated 14.03.13 issued by MHA containing the above instructions, it is nowhere mentioned that the instructions are applicable for grant of security clearance. **Reasons are unknown and not provided by the CPIO for jumping into the conclusion that the conditions mentioned above are applicable to both Security Clearance and grant of 'E' Visa to foreign crew DSFVs when the O.M is silent about security clearance.**

**My fourth question**

4. When the policy of nodal ministry for fisheries is different on issues like percentage of foreign crew and phasing out program, what is the rational or justification for MHA to reduce the percentage and fix the deadline for phasing out without considering ground realities?

**Information provided**

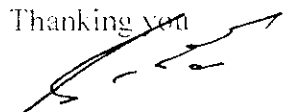
It may be stated that policy issues relating to grant of employment visa and security clearance is within the purview of MHA.

**Reason for dissatisfaction**

**The information provided is very vague.** Can you please reconfirm that issues like - the % of foreign crew that may be allowed to work on an Indian vessel operating in the EEZ and foreign crew phasing out program are Policy issues relating to grant of employment visa / security clearance ? Are they within the purview of MHA (as per Allocation of Business Rules of Parliament)?

I request you to kindly instruct the CPIO to pass me the information as requested by me and with necessary justification / explanation.

Thanking you

  
N.Sreenivas

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R.  
31/5/13

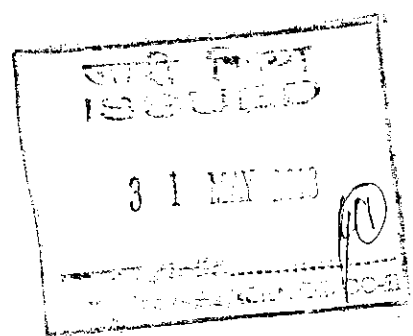
RTI MATTER BY SPEED POST

RTI/55/2013-F-I  
Government of India  
Ministry of Home Affairs

NDCC-II Building, Jai Singh Road,  
New Delhi, dated, 31st May, 2013

To

Sh. N. Sreenivas,  
No.120, St. Ebbas Avenue  
P.S. Sivaswamy Salai,  
Mylapore,  
Chennai-600004



Subject: Information sought under the RTI Act, 2005

Sir,

Please refer to your application dated 23.04.2013 (received by the undersigned on 03.05.2013 ) seeking information under the RTI Act, 2005.

2. With regard to information sought by you in point nos. 1 to 3 of your RTI application, it may be stated that the foreign fishing crew members engaged on Deep Sea Fishing vessels (DSFVs) operating in EEZ outside territorial waters require security clearance from Ministry of Home Affairs. The matter regarding grant of security clearance/issue of Employment visa to foreign crew deployed in DSFVs was examined in detail in the Ministry of Home Affairs and instructions were issued on 14.3.2013, with the approval of competent authority, as follows:

- (i) the foreign crew to be engaged on the Deep Sea Fishing Vessels (DSFVs) should be restricted to 10-15% of the total crew.
- (ii) to grant relaxation from minimum salary condition of US \$ 25,000 per annum for grant of Employment visa to foreign crew limited to 10-15% of the total crew for the period till 31.12.2013.

Thus the conditions mentioned above are applicable to both Security Clearance and grant of 'E' visa to foreign crew on DSFVs.

3. As regards point no 4, it may be stated that policy issues relating to grant of Employment visa and Security Clearance is within the purview of Ministry of Home Affairs.

4. If you are not satisfied with the information furnished, you may file an appeal to Shri V. Vumlung, Joint Secretary (Foreigners) & Appellate Authority, Ministry of Home Affairs, Foreigners Division, NDCC-II Building, Jai Singh Road, New Delhi within the prescribed time limit.

Yours faithfully,

  
(P.V. Sivaraman)

Director (Foreigners) & CPIO



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No.25022/50/2009-F.I  
Government of India  
Ministry of Home Affairs  
Foreigners Division

Jaisalmer House, 26 Man Singh Road,  
New Delhi-110 011 dated 14.11.2011.

OFFICE MEMORANDUM

Subject : Employment of foreign fishing crew in Indian Deep-sea fishing vessels – relaxation in employment visa guidelines.

The undersigned is directed to refer to Ministry of Agriculture, Department of Animal Husbandry, Dairying & Fisheries OM No.21001/7/2008-FY(Ind) Part dated 18.10.2011 on the above subject.

2. The matter has been examined in this Ministry and it has been decided that relaxation in minimum salary stipulation of US\$ 25,000 per year for foreign fishing crew in Indian Deep-sea fishing vessels cannot be acceded to. Even though visa is not required, as the foreign nationals would not be coming to the shore, the principles governing visa will still be valid. It is therefore necessary that more efforts are put on training Indian workforce so that they are utilised to the extent possible and the dependency on foreign nationals is reduced.

Ministry of Home Affairs  
ISSUED  
15 NOV 2011

Vikas Srivastava  
(Vikas Srivastava)  
Under Secretary (Foreigners)  
Tel : 2338 2989

P. Bmc 18/11

To  
Ministry of Agriculture  
(Shri Ajay Srivastava),  
Director (FE),  
Deptt. of Animal Husbandry, Dairying & Fisheries,  
Krishi Bhawan,  
New Delhi.

Copy to :

1/11

1. Ms. Amarjeet Kaur, DDG, Ministry of Labour & Employment, Shram Shakti Bhawan, New Delhi.
2. Smt. Sandhya Baliga, DG (Inspection), Customs & Central Excise, Drum Shaped Building, 5<sup>th</sup> Floor, ITO, New Delhi.

No.25022/02/2012-F-I  
Government of India  
Ministry of Home Affairs  
(Foreigners Division)  
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NDCC-II Building, Jai Singh Road,  
New Delhi-100001 dated:14-03-2013

Office Memorandum

Subject : Employment Visa to foreign crew employed on Deep Sea Fishing Vessels (DSFVs) operating in Indian EEZ.

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The undersigned is directed to refer to Ministry of Agriculture, Department of Animal Husbandry, Dairying & Fisheries, D.O. No.21001/17/2008-Fy (Ind) Part, dated 25<sup>th</sup> February, 2013 on the subject mentioned above and to say that the matter has been examined. It has been decided with the approval of the competent authority that the foreign crew to be engaged on the Deep Sea Fishing Vessels (DSFVs) should be restricted to 10-15% of the total crew and to grant relaxation from minimum salary condition of US \$ 25,000 per annum for grant of Employment Visa to foreign crew limited to 10-15% of the total crew for the period till 31-12-2013. The foreign crew must be replaced by 31-12-2013 by which time their Indian substitutes would be trained. The Ministry of Animal Husbandry, Dairying and Fisheries is also requested to share the manifest of foreign crew on board DSFVs with the Bureau of Immigration, FRROs / FROs concerned as soon as it is received from the owners of the DSFVs.

2. This issues with the approval of competent authority.

*Vikas Srivastava*

(Vikas Srivastava)

Under Secretary to the Government of India  
Tel.23438040

To

Shri Tarun Shridhar,  
Joint Secretary,  
Department of Animal Husbandry, Dairying and Fisheries,  
Ministry of Agriculture, Krishi Bhawan, New Delhi

P.S. 18/11/12  
14/3

*o/c*



No.25022/02/2012-F-I

Dated : 14-03-2013

Copy to : -

- F.B. H/20/2  
14/3  
20/3
1. Joint Director, Bureau of Immigration, New Delhi.
  2. Director (Foreigners-II), NDCC-II, MHA, New Delhi
  3. Joint Director (F & E), Coast Guard Hqrs, National Stadium Complex, New Delhi
  4. DDG, Ministry of Labour & Employment, New Delhi
  5. Joint Secretary (Customs), Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, North Block, New Delhi.
  6. Director (Customs), Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, North Block, New Delhi.

Vikas Srivastava

(Vikas Srivastava)

Under Secretary to the Government of India

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