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# No H-1B? Get O-1B: Niche US visas for 'extraordinary' individuals grow in popularity

BY LUBNA KABLY, TNN | JUL 03, 2017, 05.07 PM IST

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Despite the growing restrictions on H-1B work visas, fashion designer Shalini (name changed) is living her American dream. The fabric print expert who hails from Mumbai obtained an O-1B visa (a non-immigration visa) a few months ago. Elsewhere, a renowned instrumental musician, who is actively involved in a music school in the US, has obtained an immigration visa (also known as the green card) under the EB-1A category.



Awareness of O-1 visas is slowly building up in India and experts say their popularity will shoot up.

Shalini is among the growing tribe that is turning to the O-1B category--which neither has a cap on the number of visas issued each year nor is fettered by protectionist measures. Others, like the musician, who wish to reside permanently in the US are availing of the EB-1A. What do Shalini and the musician have in common? The answer is 'distinction' or 'extraordinary ability', which needs to be proven to the US authorities.

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As such visas are relatively challenging to obtain, immigration attorneys work closely with clients to help them build up their case. Statistics given by the US Department of Homeland Security show that allotment of O-1 visas (O-1A and O-1B) has grown significantly over the years, from just 31,969 in 2006 to 93,086 a decade later. Awareness of O-1 visas is slowly building up in India and experts say their popularity will shoot up. Such visas issued to Indians numbered 1,137 in 2015.

"For O-1A, it is important to demonstrate 'extraordinary ability', it is a high legal standard requiring evidence that the individual has risen to the top in his or her field. Awards (internationally recognised or those on national level), publications, recognition in the media, patents, trademarks, academic contributions et al help substantiate it," explains David H Nachman, managing attorney, NPZ law group.

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Particulars	O1 VISA	EB-1A VISA
Eligibility for applicants	<p><b>O-1A:</b> Individuals with an extraordinary ability in the sciences, education, business or athletics</p> <p><b>O-1B:</b> Individuals with an extraordinary ability in the arts or extraordinary achievement in cinema or television</p>	<p>Individuals with an extraordinary ability in the sciences, arts, education, business, or athletics through sustained national or international acclaim (Nobel prize winners don't require any further evidence)</p>
Nature of visa	Non-immigration work visa	Immigration work visa (ie: green card)
Visa tenure	<p>Three years, with a one-year extension at a time for an indefinite period</p>	<p>Permanent residence and work eligibility in US (not citizenship)</p>
Time taken for issue#	<p>2-6 weeks</p>	<p>3 months to a few years</p> <p># As per immigration experts</p>

"O-1B's requirement is 'distinction'--it is comparatively a less rigorous legal standard. It can be shown by recognition in media or among peers in the field. Both the O category visa applications call for at least 10 peer reference letters. Often, we ensure that half the letters are from India and the rest from other countries--this helps demonstrate international recognition," he says.

Nachman adds that O-1B is referred to as the artists' visa. "Arts includes not just performing arts, but also covers graphic designers, fashion designers, etc."

As a fabric print expert, Shalini conceptualises trends -colour trends and prints for the fashion seasons. Armed with an MBA in international luxury brand management from a business school in Paris, plus prior years of work experience in the New York fashion

industry (under an H-1B visa), she seemed the right candidate to apply for O-1B. Her network was willing to give her some great recommendatory reference letters.

Shalini explains the process behind her success: "I handed my portfolio in a wooden box, not just with my portfolio book, but actual swatches of fabrics that I had designed. The application also required that my work had to be published in notable publications--I was lucky to have been featured in a prominent fashion magazine. I also made my website and archived all my work."

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