



(Reg. No. 0409/2011)

PRAVASI LEGAL CELL

Empowering People on Legal Front

Date: 07.02.2025

Place: New Delhi

To,

The Foreign Secretary,

Ministry of External Affairs,

74B, South Block, New Delhi

Sir,

Subject: Need for intervention in the formulation of appropriate legislations/rules/regulations/policies/guidelines to protect and safeguard the rights, interests, and safety of Indian Students traveling abroad for education in light of the observations of the **Hon'ble High Court of Delhi in WP (C) 16886/2024.**

Pravasi Legal Cell is a Non-Governmental Organization primarily working for the welfare of migrants, securing justice for the victims, and fighting for policy changes that affect migrants globally. This representation is made to address a serious issue of lack of proper laws/rules/regulations/policies/guidelines that are required to protect the Indian students traveling abroad for education. The failure to extend the protection under legislation primarily or any policy/guidelines/rules/regulations has led to the exploitation and violation of the basic rights of the students preparing to travel abroad, and the same requires immediate attention from the Ministry of External Affairs in view of the following facts and circumstances mentioned hereunder:-

1. That with globalization and the economic boom, India has seen a steady rise in migration of people from the 1970s, especially to the Gulf countries, which later on expanded to countries like the USA, UK, Canada, Australia, etc. Earlier,



migration was very much limited to employment opportunities, but the last 10 years have brought an explosive growth of Indian students migrating to foreign countries for education. According to the official website of the Ministry of External Affairs, 1.3 million students are pursuing education abroad as of January 2024. It is pertinent to mention herein that the number of students proceeding abroad for education is increasing substantially year after year and issues attached to such migration are also on the rise. According to a news report of the Time of India dated 13.11.2023, India is the second-largest country sending students abroad with an increase of 35% rise year over year. ¹The University World News Report dated 19.07.2024, records the constant rise of Indians traveling abroad for education and gives out the estimate that about 2 million students from India will be studying abroad by 2025. ² Such a boom in the student's migration abroad, coupled with the absence of legislation or guidelines/rules/regulations, puts the students in a high-risk environment exposed to all kinds of vulnerabilities.

2. That, it is a very surprising fact that Indian Students who are proceeding abroad for education are not covered under the scope and ambit of any legislation including the Emigration Act, 1983, or rules/policies/guidelines which in turn increases the exposure to exploitation, raises safety and security concerns and is a violation of their rights.
3. That the Emigration Act, of 1983, which deals with the protection of emigrants to foreign countries, does not extend its protection to the emigrant students of this nation. Section 2(f) of the Act defines, “emigration” as the departure of any person from India “with a view of taking up employment”. This narrow definition excludes a substantial class of individuals including students, and consequently,

¹ <https://timesofindia.indiatimes.com/education/study-abroad/usa/study-abroad-india-reached-an-all-time-high-in-international-student-enrollment-in-the-usa/articleshow/105183449.cms>

² <https://www.universityworldnews.com/post.php?story=20240719144742102>



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the protection embodied in the act is not extended to the citizens traveling abroad for education.

4. That the limited scope of the Emigration Act, 1983 results in the exclusion of educational migration from regulatory oversight. There is no statutory mandate for the registration or regulation of agents or consultants facilitating educational migration, nor is there any established grievance redressal mechanism to address the issues of students in this regard, which in turn exposes students to financial exploitation, safety and security concerns, and other significant risks.
5. The lack of statutory safeguards extended to students is in direct violation of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India. All such issues related to foreign education are supposed to be addressed at the source rather than leaving them at the mercy of systems at the destination. The Indian students while preparing to leave their homeland are placed in vulnerable positions with limited resources and no legislative backing to address unethical practices and protect themselves from exploitation.
6. That the Government of Kerala on 28.09.2024 issued a Government Order G.O (Rt) No. 850/2024/NORKA in compliance with the directive of the Hon'ble High Court of Kerala that includes the following measures:
 - Strengthening of NRI Cell within the Kerala Police, with added authority to investigate and address online recruitment fraud, and establish a dedicated cyber unit focused on these activities.
 - Formation of a multi-agency task force with representatives from the Kerala Police, Cyber Crime Cell, Ministry of External Affairs, Labor Department, and legal experts to monitor and act against fraudulent recruitment agencies.



- The Law Department has been requested to examine the scope of making legislation/ legal framework to regulate the recruitment agencies and agencies involved in the migration of students.
- An initiative to raise public awareness, educate potential victims about civil remedies, and improve grievance redressal mechanisms to empower individuals affected by recruitment fraud.
- The Ministry of External Affairs has been requested to take urgent and necessary action for effective and strict measures to curb the menace of innumerable number of recruitment scams relating to foreign jobs.

The order seeks the involvement of the Ministry of External Affairs in recruitment scams, and such intervention is also very much necessary in addressing the scams relating to foreign education. It also recognizes that the students are not covered in the existing system of emigration process and calls the need for legislation to regulate the agencies involved in the migration of students. The active involvement and intervention of the Ministry of External Affairs is necessary to regulate the agencies and protect the citizens moving abroad for education. Even though the order primarily focuses on the regulation of employment-related migration, it also talks about regulating the agencies involved in the migration of students. Hence, it is imminent to introduce similar reforms and guidelines to safeguard Indian Students planning to go abroad.

7. The Emigration Draft Bill, 2021 which was brought in as a reform to the decades-old Emigration Act, increases the scope of the term emigration, but it also limits the focus only to employment-related migration and fails to address education-



related migration. Such an exclusion is rudimentary and is ignorant of the changes and development of the scope of migration.

8. That according to various news reports, between January 2018 and May 2023, over 700 Indian students faced deportation due to fake offer letters provided by the agents in Jalandhar. A news report by the BBC dated 17.03.2023 records that more than 150 Indian Students have been told by the Canadian Border Security Agency (CBSA) over forged college admission letters.³ ABC News reports a scam wherein an overseas education agency, “World Visa Advisors Office” defrauded a girl from Haryana, Pranjal, and scores of families across northern India by promising visas to Australia.⁴ Such incidents clearly indicate that the absence of any regulatory oversight assisting students, and a regulatory framework to maintain the operations of such organizations makes the Indian students migrating vulnerable to cheating and fraud. The absence of mandatory registration for agents leads to difficulty in obtaining official records of such agencies, making it very difficult to verify the legitimacy of such agencies.
9. That there is no standardized process for addressing grievances related to fraudulent admissions, false promises, or substandard living conditions. In case of employment-related emigration, the government can intervene through the Protector of Emigrants or the Ministry of External Affairs, however, the students have no equivalent body to help them navigate out of the issues and concerns they face in foreign countries.
10. That in order to get at par with the International Best Practices, India needs to have a framework for safeguarding the interests and rights of the students staying outside India. Many countries have specific laws and regulations to protect their citizens studying abroad. The inclusion of Indian students within the Emigration

³ <https://www.bbc.com/news/world-asia-india-64988228>

⁴ <https://www.abc.net.au/news/2024-09-17/indian-students-duped-by-australian-visa-fraud/104309404>



Act of 1983, and/or the formulation of legislation is necessary to protect the rights of the citizens studying abroad.

11. That the economic impact on families due to fraudulent practices leads to significant financial losses for students and families, who have invested substantial amounts in acquiring the dream of foreign education. The economic impact of such unregulated education services necessitates legal protection.
12. That on the aforementioned issue, we had moved to the Hon'ble High Court of Delhi vide WP(C) 16886/2024. The Hon'ble High Court of Delhi recognized the issue herein and its seriousness and was pleased to dispose of the matter vide order dated 16.12.2024 with the observation that, "*The petitioner states that he has already made a representation to the Secretary, Ministry of External Affairs in this regard. We are sure that this representation would be given the consideration it deserves*". Hence, in light of the High Court's observation, it is also humbly prayed that necessary steps may be taken to protect the rights of the students migrating abroad for education. The copy of the order of the Hon'ble High Court of Delhi dated 16.12.2024 is enclosed herein for your kind reference.
13. In light of all the above-mentioned, it is the need of the hour to introduce a comprehensive legislative reform in the existing Indian Emigration Act, 1983, and the proposed Draft Amendment Bill, 2021, or introduce legislation for the protection of Indian students planning to migrate abroad. These reforms will only fill in the regulatory void that Indian students face abroad and provide legal resources and avenues for addressing grievances in order to ensure that India implements laws and guidelines protecting the citizens studying abroad.
14. Therefore, I humbly pray to your good self to intervene in this matter, and take necessary steps to ensure that the students planning to go abroad for education are brought within the ambit of legislation by either expanding the scope of the



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Emigration Act of 1983 or the Emigration Bill 2021 or by introducing new legislation specifically addressing the issue of student's migration abroad. It is also prayed that in the meantime guidelines/policies/rules/regulations be kindly drawn up immediately to address the issues relating to student migration, safeguard the interest of the students, and prevent any form of abuse, fraud, or exploitation.

Regards,

Pravasi Legal Cell,

Represented by,



Adv. Jose Abraham,

President,

D-144 A, Ashram- New Delhi- 110014.



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 16886/2024

PRAVASI LEGAL CELLPetitioner

Through: Mr. Jose Abraham and Mr. Basil
Jaison, Advocates.

versus

UNION OF INDIARespondent

Through: Mr. Shashank Dixit, CGSC with Mr.
Vedansh Anand,G.P. for UOI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **06.12.2024**

1. The petitioner has filed the present petition, *inter-alia*, praying as under:

“i. Issue a writ of mandamus or any other writ or directions, directing the Respondent to take appropriate measures and frame guidelines/policies to safeguard the rights and interests of Indian students traveling abroad for education as the existing legal framework for emigration, i.e. the Emigration Act, 1983, excludes students from the definition of emigrants;

ii. Issue a writ of mandamus or any other writ directing the Respondent to consider Annexure P-6 and pass orders on the same, within a time frame that may be fixed by this Hon'ble Court.

2. Learned counsel for the petitioner essentially seeks that the statutory guidelines be framed for protection of the students who travel overseas for educational purposes. The petitioner seeks a direction that the protection extended to immigrants under the Emigration Act, 1983 be also extended to



cover such students.

3. Clearly, the relief sought by the petitioner falls under the realm of policy and legislation. Therefore, we do not consider it apposite to issue any direction in this regard.

4. The petitioner states that he has already made representation to the Secretary, Ministry of External Affairs in this regard. We are sure that this representation would be given the consideration it deserves.

5. The petition is disposed of.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

DECEMBER 06, 2024/ssc

Click here to check corrigendum, if any