

Indians may soon get green cards by paying a super-fee

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MUMBAI: The Indian diaspora can now jump the green card backlog queue on payment of a supplemental fee (commonly referred to as a super-fee) and obtain their permanent visas.

Similarly, legal dreamers (children of H-1B holders who have aged out or will age out, and who have turned 21) will also get a chance to obtain permanent residency and citizenship, according to the portion of the Reconciliation Bill released by the US House Judiciary Committee, which has jurisdiction over immigration.

The Bill, however, does not seek to eliminate country caps for green cards, or increase the annual quota of H-1B visas.

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- Indians caught in green card backlog can obtain permanent visas by paying a supplemental fee of \$5,000, if the Reconciliation Bill of the House panel is cleared
- Legal dreamers can also obtain permanent residency
- The US sets aside 1.40L green cards for job-based applicants and there is a 7% cap per country

Cyrus D Mehta, founder of a New York immigration law firm, told TOI, “This is a terrific bill. While it does not have everything, it would allow Indians in the employment green card backlogs to seek a waiver of the numerical limitations by paying a super fee of \$5000 at the time of filing their final adjustment of status applications and get green cards.”

Annually, the US sets aside only 1.40 lakh green cards for employment-based applicants and there is a 7% cap per country. Given the heavy influx of Indians in the US — majority of them holding an H-1B visa — this restrictive policy poses challenges.

According to a study by David J Bier, Immigration Policy Analyst at Cato Institute, a Washington-headquartered think-tank, the employment-based green card backlog (EB2 and EB3 skilled category) for those from India had reached 7.41 lakh in April 2020 and had an expected wait time of 84 years.

In the context of this Bill, Bier tweeted, “Employment-based applicants can adjust if they have waited two years from their priority date... This is almost like abolishing the employment-based caps for adjustment applicants who can pay \$ 5000. Awesome!”

Mehta adds, “Many Indians facing backlogs may also qualify under the essential worker provision, which is more generous as it does not need an employer to sponsor them or for them to pay the super fee of \$5000.” However, it appears that a fee of \$1500 would be payable. Essential workers qualify based on “consistent” income in an essential job between January 31, 2020 and August 24, 2021. The list of essential workers is quite exhaustive and includes those from IT, healthcare, food and agriculture and transport industries, to name a few.

“The caveat is that the Bill we now see is not the final one, and will be subject to mark-ups on Monday in the House Judiciary Committee, and will need to be included in the Senate Bill. Finally, parliamentarians will determine whether the immigration provisions are revenue generating or not, as they will be part of a budget Reconciliation Bill that does not need a filibuster proof majority in the Senate,” Mehta added.

The Indian diaspora is hopeful of a favourable outcome though.