

(2026) 08 DEL CK 4222

In the Delhi High Court, Principal Bench, New Delhi

Case No : LPA 603/2026 & CM APPL. 50730/2026

Obinna Theodore Onyento

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Foreigners Act, 1946

Citation : (2026) 08 DEL CK 4222

Hon'ble Judges : Devendra Kumar Upadhyaya, C.J.;Tejas Karia, J

Bench : Division Bench

Advocate : Mr. R.P. Luthra, Mr. Himanshu Luthra, Mr. Sourabh Luthra, Mr. A.K. Goswami, Mr. Vikas Singh, Mr. Prashant Giri, Mr. Ravinder Singh, Ms. Pratima N. Lakra, Mr. Harshit Joshi, Mr. Shailendra Kumar Mishra

Judgement

TEJAS KARIA, J. (Oral)

CM APPL. 50728 & 50729/2026 (Condonation of Delay)

1. These are Applications filed on behalf of the Appellant seeking condonation of delay of 48 days in filing the Appeal and 08 days in re-filing the Appeal.
2. Having regard to the averments made in the present Applications, the same are allowed. The delay of 48 days in filing the Appeal and 08 days in re-filing the present Appeal is hereby condoned.
3. The Applications stand disposed of.

LPA 603/2026

4. The present Letters Patent Appeal is directed against the judgment dated 13.03.2026 ("**Impugned Judgment**") passed by the learned Single Judge in W.P. (C) 14835/2024 ("**Writ Petition**") instituted by the Appellant.
5. The Appellant, a citizen of Nigeria, arrived in India in the year 2015 on a Student Visa for the purpose of pursuing higher education. He initially enrolled

with Apeejay Stya University for the B.Tech. (Computer Science Engineering) programme. However, upon the demise of his father, who was also his educational sponsor, the Appellant sought transfer of his studies to Respondent No. 4-University ("**University**").

6. On 06.08.2016, the University granted the Appellant a provisional offer of admission to the B.Sc. (IT) Programme ("**Programme**"). Pursuant thereto, the Appellant deposited the prescribed fees with the University. Since the Foreigners Regional Registration Office ("**FRRO**") declined to register the Appellant on the basis of the provisional admission offer, the University advised him to obtain a fresh Student Visa in order to secure full admission and continue his studies.

7. On 03.04.2017, the University issued a Visa Recommendation Letter to enable the Appellant to obtain a fresh Student Visa from Nigeria. The Appellant, thereafter, travelled to Nigeria in May 2017, obtained a fresh Student Visa in the name of the University, and returned to India on 30.12.2017 to join the Programme.

8. On 29.07.2022, the Appellant applied for extension of his Student Visa. Since the University declined to issue a *bona fide* certificate, the said application, as well as subsequent applications submitted by the Appellant during the year 2022-23 seeking extension of his Student Visa, were rejected for want of the *bona fide* certificate.

9. Thereafter, the Appellant instituted the Writ Petition, *inter alia*, seeking issuance of a *bona fide* certificate, visa-related reliefs, restoration of his educational rights, and compensation.

10. In the meantime, W.P.(C) 3253/2025 was instituted by the owner of the premises where the Appellant was residing ("**Owner**"), seeking initiation of deportation proceedings against the Appellant on the ground that he had continued to stay in India beyond the validity of his Student Visa. The learned Single Judge, *vide* order dated 17.03.2025, disposed of W.P.(C) 3253/2025 by directing respondent nos. 1 to 4 therein to consider the representation submitted by the Owner and take necessary action thereon.

11. The Appellant was detained and shifted to a Deportation Facility on 02.07.2025. Subsequently, he instituted CONT. CAS(C) No. 1315/2025 ("**Contempt Petition**"), alleging arbitrary action and misuse of power by the Respondents despite the pendency of the Writ Petition before this Court.

12. *Vide* the Impugned Judgment, the learned Single Judge dismissed the Writ Petition and the Contempt Petition, observing that upon expiry of the visa period, a foreign national has no legal right to remain in the country and that the power of the Central Government to expel such foreign national is absolute, being an unfettered power under the provisions of the Foreigners Act, 1946.

13. It is the Appellant's case that, notwithstanding his admission to the Programme and acceptance of the prescribed fees by the University, the

University subsequently demanded admission fees along with a fine and denied him the requisite academic infrastructure, semester registrations, examination facilities, course access, *bona fide* certificates and other academic support necessary for successful completion of the Programme.

14. Learned Counsel for the Appellant submitted that the learned Single Judge failed to appreciate that acceptance of the prescribed fees by the University gave rise to a legitimate expectation that the Appellant would be afforded a meaningful opportunity to complete the Programme. It was further submitted that the findings with respect to the Appellant's alleged academic deficiencies were recorded solely on the basis of the records produced by the University, without directing any independent verification, despite the Appellant's specific allegations that he had been denied access to academic facilities.

15. Learned Counsel for the Appellant further submitted that the learned Single Judge erred in considering the Appellant's alleged deficiency in credits and attendance in isolation, without appreciating the Appellant's consistent stand that he had been denied access to semester registrations, examination facilities, course access and the academic infrastructure necessary to pursue the Programme.

16. *Per contra*, it is the University's case that the Appellant failed to earn the requisite credits for completion of the Programme within the maximum permissible period of five years, failed to satisfy the minimum attendance requirement of 75% for eligibility to appear in the examinations, and also failed to avail himself of the supplementary examinations. The University, therefore, contended that, in the absence of any *bona fides* on the part of the Appellant to complete the Programme, it declined to issue a *bona fide* certificate, which consequently resulted in rejection of the Appellant's applications seeking extension of his Student Visa.

17. We have heard learned Counsel for the parties and perused the material placed on record.

18. The principal contention urged on behalf of the Appellant is that, despite admitting him to the Programme and accepting the prescribed fees, the University denied him the requisite academic infrastructure, semester registrations, examination facilities, course access and other academic support necessary for successful completion of the Programme, and thereafter refused to issue a *bona fide* certificate, which resulted in rejection of his applications seeking extension of the Student Visa.

19. In the present case, it is not in dispute that the Appellant did not complete the Programme within the maximum permissible period of five years, earned only 20 credits out of the required 138 credits, and failed to fulfil the eligibility criteria for completion of the Programme and award of the degree. It is also not in dispute that the Appellant did not re-appear in the supplementary examinations despite being afforded opportunities by the University.

20. The material placed on record further indicates that the University afforded the Appellant sufficient opportunities over several years to fulfil the academic requirements of the Programme. In these circumstances, the University's refusal to issue a *bona fide* certificate to the Appellant cannot be held to be unjustified. The learned Single Judge, *vide* the Impugned Judgment, rightly observed that there was no reason for the University to issue a *bona fide* certificate when the Appellant had failed to demonstrate that he was a *bona fide* student willing to complete the Programme.

21. In the present case, the Appellant was granted a Student Visa on 06.12.2017, and the last extension granted to him expired on 31.07.2022. Clause 15.2 of the Visa Manual issued by the Ministry of Home Affairs, Government of India ("**Visa Manual**") provides that a Student Visa is valid for a maximum period of five years or for the duration of the academic course of study, whichever is less. Clause 15.3 of the Visa Manual further provides that where a foreign student changes his / her course midway and joins another course, the period of validity of the Student Visa is to be reckoned from the initial date of its issuance. Clause 15.2 of the Visa Manual contemplates extension of a Student Visa beyond the prescribed period only in rare and exceptional cases, for a further period of up to two years on a six-monthly basis.

22. The Appellant has failed to demonstrate the existence of any rare or exceptional circumstance warranting extension of his Student Visa beyond the prescribed period in terms of Clause 15.2 of the Visa Manual. Clause 15.3 of the Visa Manual also does not advance the Appellant's case, as grant of a fresh Student Visa upon his admission to the University did not result in commencement of a fresh period of validity.

23. Thus, the learned Single Judge rightly observed that, upon expiry of the visa period, a foreign national has no legal right to remain in the country and that, in the facts of the present case, the Central Government possesses absolute discretion under the provisions of the Foreigners Act, 1946 to deport the Appellant.

24. In view of the aforesaid, we are of the considered opinion that the Appellant has failed to demonstrate any error of fact or law in the Impugned Judgment warranting interference in the present Appeal.

25. Accordingly, the present Appeal is dismissed. Pending applications, if any, also stand disposed of. There shall be no order as to costs.