

**AUG 26 2004**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

LALTA PERSUAD RAMNARINE,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 03-72776

Agency No. A78-514-280

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted August 9, 2004  
San Francisco, California

Before: PREGERSON, KOZINSKI, and HAWKINS, Circuit Judges.

Substantial evidence does not support the conclusion that the government was able to control the alleged persecutors. *See Wang v. Ashcroft*, 341 F.3d 1015, 1019-20 (9th Cir. 2003); *Singh v. INS*, 134 F.3d 962, 967 n.9 (9th Cir. 1998).

Therefore, we grant the petition and remand to the Board of Immigration Appeals

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

for a determination of whether the treatment suffered by the petitioner rises to the level of persecution. *Cf. Prasad v. INS*, 47 F.3d 336, 339 (9th Cir. 1995).

**PETITION GRANTED AND REMANDED.**

KOZINSKI, Circuit Judge, dissenting:

Because petitioner, by his own admission, never sought the protection of his government, I dissent.