

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.11672 of 2017**

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Pushpa Fogala, Wife of Sri Raj Kumar Fogala, Resident of Mohalla Arya Samaj  
Chowk, Ward No. 10, Main Road, Khagariya, P.S. & District Khagariya.

.... .... Petitioner/s

Versus

1. State Election Commission, Bihar through its Commissioner, State Election Commission, Bihar, Patna.
2. Secretary, State Election Commission, Bihar, Patna.
3. State of Bihar through Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
4. Election Officer-cum-Sub-Divisional Magistrate, Khagariya.
5. Municipality, Khagariya through its Chairman, Khagariya Municipality, Khagariya.
6. Executive Officer, Khagariya Municipality, Khagariya.
7. Smt. Sabita Devi, wife of Sajjan Khandeliya, Sagarmal Chowk, Bishwanath Ganj, Jeevan Shree Hotel, at present Councillor of Ward No. 10, Khagariya Municipality, P.S. & District- Khagariya.

.... .... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Jitendra Prasad Singh, Advocate    |
| For the SEC          | : | Mr. Amit Shrivastava, Advocate         |
|                      |   | Mr. Sanjeev Nikesh, Advocate           |
| For the State        | : | Mr. Md. Syed Hussain Majed, AC to SC-6 |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 25-08-2017**

Heard learned counsel for the petitioner; State and the  
State Election Commission.

2. The petitioner has moved the Court for the following



reliefs:

*“That, this is an application for issuance of an appropriate writ or writs directing the respondents to disqualify the respondent no. 7 without further delay for holding the post as a Member of the Municipality, Khagariya in view of the provisions contained in Section 18(1)(n) of the Bihar Municipal Act, 2007 (hereinafter referred to as the “Municipal Act”) as she was absent from the meeting of the municipality for more than three consecutive meetings and/or to grant any other relief/reliefs for which the petitioner is legally entitled in the facts and circumstances of the case.”*

3. At the very outset, learned counsel for the petitioner submitted that for the said relief, he had initially approached the State Election Commission but when repeated representations filed did not receive any response, he has been forced to move this Court. He drew the attention of the Court to the representations filed by the petitioner before the State Election Commission on 29.04.2017 and 27.05.2017, copies of which have been made Annexures- 6 and 7 to the writ application.

4. Learned counsel for the State Election Commission submitted that normally a report is called from the District authorities which may take time but he assures the Court that the same shall expeditiously disposed off.

5. Having regard to the aforesaid, the writ petition stands disposed off with a direction to the respondent no. 1 to ensure



that the complaint filed by the petitioner with regard to the election of the respondent no. 7 is disposed off, in accordance with law, after hearing the parties concerned, expeditiously and in any case within three months from the date of production of a copy of this order before him.

**(Ahsanuddin Amanullah, J)**

P. Kumar

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