

(2025) 07 KL CK 1176
In the High Court Of Kerala
Case No : Writ Petition (C) No. 17003 Of 2025

Manoj

APPELLANT

Vs

Kattappana Municipality

RESPONDENT

Date of Decision : 02-07-2025

Acts Referred:

Information Technology Act, 2000 — Section 4, 6, 6A
Kerala Municipality Act, 1994 — Section 447(6)

Citation : (2025) 07 KL CK 1176

Hon'ble Judges : C.S.Dias, J

Bench : Single Bench

Advocate : Jomy K. Jose, Muhammed Anshif T.K., Unnikrishnan.V.Alapatt

Final Decision : Dismissed

Judgement

C.S. Dias, J

1. The petitioner was running a meat and vegetable stall within the territorial limits of the first respondent Municipality for the last few years. On 12.3.2025, the petitioner applied for the renewal of Ext.P1 trade license. But the second respondent has failed to communicate any decision, either of approval or rejection, within 30 days of submitting the renewal application. Hence, the petitioner is entitled to a deemed license under Section 447(6) of the Kerala Municipality Act, 1994 (for short, 'Act').

2. The second respondent has filed a statement contending that, although the petitioner had submitted the renewal application on 12.3.2025, it was returned on 24.3.2025 due to certain defects. The petitioner resubmitted the application only on 27.3.2025. Consequently, the Health Inspector conducted an inspection and found that the petitioner has encroached on the PWD drainage, discharged wastewater into the drainage, and has maintained his backyard in an unhygienic condition. In view of the above facts, the renewal application was rejected on 25.4.2025, i.e., within 30 days from the date of resubmission of the application.

Hence, the petitioner is not entitled to a deemed license.

3. Pursuant to this Court's direction, the second respondent has filed an additional statement producing Annexure 1 ? the order rejecting the petitioner's application. It is asserted that, though attempts were made to serve the order on the petitioner, he refused to accept the same. Consequently, Annexure 2 letter, containing the Annexure 1 order, was affixed in the petitioner's building.

4. The petitioner has filed a reply affidavit contending that the Annexure 2 letter was communicated to him only on 14.5.2025, which is beyond the statutory period of 30 days. Therefore, the petitioner is entitled to a deemed license.

5. Heard, Sri. Jomy. K. Jose, the learned counsel for the petitioner and Sri. Unnikrishnan V. Alapatt, the learned Standing Counsel for the respondents.

6. The learned counsel for the petitioner submitted that Annexure 1 order was never served on the petitioner. It is only after this Court directed the respondents to produce Annexure 1 order, the same was placed on record. Annexure 2 letter confirms that the order was passed only on 14.5.2025 and not on 25.04.2025. He also relied on Ext.P4 screenshot of the petitioner's dashboard on the K-smart portal to demonstrate that the rejection order was not accessible to the petitioner. The learned Counsel relied on the decision of this Court in Koottikkal Grama Panchayath and Another v. Vazhathara Granites and Aggregates Pvt. Ltd [2018 KHC 4640] and Jalaludeen K. v. Veliyam Grama Panchayat [2024 KHC 1108], in support of his contention that, if an order is not communicated to the applicant within 30 days from the date of submission/ resubmission of the application, the applicant is entitled to a deemed license. In view of the above decisions, the petitioner is entitled to a deemed license.

7. On the contrary, the learned counsel for the respondents argued that the K-smart platform is a part of the Government of Kerala's Digital Kerala e-Governance initiatives. The Government of Kerala has implemented the K-smart portal to provide a transparent interface for submission of applications, tracking the progress of the applications and viewing all communications and orders passed on the applications. All communications through the K-smart portal are legal and valid in view of Sections 4, 6 and 6A of the Information Technology Act, 2000 ('IT Act', for brevity). In view of Annexures A5 to A7 Government Orders, the 1st respondent has adopted the K-smart platform. The petitioner had applied and received the previous year's trade license through the K-smart portal. The petitioner has also cured the defects on the renewal application and resubmitted the same through the portal. It is implausible that the petitioner was unable to access the rejection order. Ext.P4 screenshot shows only the main window of the dashboard. The petitioner ought to have navigated further in the dashboard and retrieved the order. If he faced any technical difficulty, he ought to have approached the facilitation centre. Moreover, if the petitioner has any grievance against the K-smart system, he has to implead the Government of Kerala as an additional respondent and challenge Annexures A5 to A7 G.Os. Furthermore, the

petitioner has an alternative statutory remedy of appeal under the Act to challenge the order. Therefore, this Court may not entertain the writ petition. In light of the implementation of the K-smart portal, all communications between the first respondent and its applicants are through the portal, which is a valid communication under Section 447(6) of the Act. The petitioner is not entitled to a deemed license. Similarly, the petitioner has carried out unauthorised construction in the property. His application for regularisation has been rejected, and a demolition notice has been issued to him. On the said ground also, the petitioner is not entitled to a deemed license.

8. The petitioner was granted Ext.P1 license by the second respondent to trade vegetables and processed meat for the period from 1.4.2024 to 31.03.2025. On 12.03.2025, the petitioner submitted the renewal application. The crux of the petitioner's case is that the second respondent failed to consider the application within 30 days from the date of submission. Hence, the petitioner is entitled to a deemed license as provided under Section 447(6) of the Act.

9. It is necessary to refer to Section 447(6) of the Kerala Municipality Act, which reads as follows:

"447. **** (6) If the order on an application for any licence or permission are not communicated to the applicant within thirty days after the receipt of the application by the Secretary or within such longer period, as may be prescribed in any class of cases the application shall be deemed to have been allowed for the period required in the application, subject to the Act, rules and bye-laws and all conditions which would have been ordinary imposed."

10. Section 447(6) of the Act mandates the Secretary to communicate the order within 30 days of receiving an application, failing which the applicant is entitled to a deemed license.

11. It is germane to also refer to Sections 4, 6 and 6A of the IT Act, which read as follows:

"4. Legal recognition of electronic records.— Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is—

(a) rendered or made available in an electronic form; and

(b) accessible so as to be usable for a subsequent reference.

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6. Use of electronic records and [electronic signatures] in Government and its agencies.— (1) Where any law provides for—

(a) the filing of any form, application or any other document with any office,

authority, body or agency owned or controlled by the appropriate Government in a particular manner;

(b) the issue or grant of any licence, permit, sanction or approval by whatever name called in a particular manner;

(c) the receipt or payment of money in a particular manner, then, notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the appropriate Government.

(2) The appropriate Government may, for the purposes of sub-section (1), by rules, prescribe—

(a) the manner and format in which such electronic records shall be filed, created or issued;

(b) the manner or method of payment of any fee or charges for filing, creation or issue any electronic record under clause (a)

[6A. Delivery of services by service provider.— (1) The appropriate Government may, for the purposes of this Chapter and for efficient delivery of services to the public through electronic means authorise, by order, any service provider to set up, maintain and upgrade the computerised facilities and perform such other services as it may specify, by notification in the Official Gazette.”

Explanation.-- For the purposes of this section, service provider so authorised includes any individual, private agency, private company, partnership firm, sole proprietor firm or any such other body or agency which has been granted permission by the appropriate Government to offer services through electronic means in accordance with the policy governing such service sector.

(2) The appropriate Government may also authorise any service provider authorised under sub-section (1) to collect, retain and appropriate such service charges, as may be prescribed by the appropriate Government for the purpose of providing such services, from the person availing such service.

(3) Subject to the provisions of sub-section (2), the appropriate Government may authorise the service providers to collect, retain and appropriate service charges under this section notwithstanding the fact that there is no express provision under the Act, rule, regulation or notification under which the service is provided to collect, retain and appropriate e-service charges by the service providers.

(4) The appropriate Government shall, by notification in the Official Gazette, specify the scale of service charges which may be charged and collected by the service providers under this section: Provided that the appropriate Government may specify different scale of service charges for different types of services.]

12. The above provisions under the IT Act empower the appropriate Government to authorise service providers to set up such facilities for efficient delivery of services to the public through electronic means, and have enabled the statutory authorities to communicate any information in electronic form through an electronic platform.

13. It is in the above backdrop that the Government of Kerala has implemented the K-smart platform and issued Annexures 5 to 7 G.Os directing the statutory authorities to implement its e-Governance initiatives.

14. It is not in dispute that the petitioner had applied and received Ext.P1 license through the K-smart portal, and that he submitted the renewal application, that the second respondent had pointed out defects in the application and the application was resubmitted all through the same portal.

15. According to the second respondent, Annexure 1 order, rejecting the renewal application, was posted in the petitioner's dashboard on 25.04.2025, which is a valid communication.

16. The petitioner now contends that, although Ext.P4 screenshot shows that the renewal application was rejected, the order was not accessible in the dashboard. This allegation is made for the first time in I.A. No.1/2025 and finds no mention in the writ petition or the reply affidavit.

17. The petitioner's contention that Annexure 2 letter was received by him only on 14.5.2025, thus entitling him to a deemed license, cannot be accepted on its face value. Given the petitioner's familiarity with the portal and that he has successfully navigated the dashboard to obtain Ext.P1 license and also submit the renewal application and cure the defects in the application, it is difficult to comprehend that the Annexure 1 order was not accessible. If that was the case, the petitioner ought to have taken timely action to obtain the order. It is at this belated stage that the petitioner has raised the above plea, which cannot be accepted. In view of the implementation of the K-smart portal and the provisions of the IT Act, the petitioner cannot insist on being served with the rejection order in the physical form.

In the above conspectus, I hold that Annexure 1 order was validly communicated to the petitioner through the K-smart portal and such electronic communication is sufficient compliance with Section 447(6) of the Act.

Therefore, the petitioner is not entitled to a deemed license. The writ petition fails and is accordingly dismissed.