

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT APPEAL NO. 1478 OF 2026 (MV)

BETWEEN:

SHIVAGANESH J.V
S/O J. VENKATACHALAMAIAH
AGED ABOUT 56 YEARS
NO.520, 16TH MAIN
15TH CROSS, 4TH SECTOR
HSR LAYOUT
BENGALURU-560 102

...APPELLANT

(BY SRI: B.R. SUNDARA RAJA GUPTA, ADVOCATE)

AND:

Digitally signed
by PAVITHRA B
Location: HIGH
COURT OF
KARNATAKA

1. THE REGIONAL TRANSPORT AUTHORITY
BENGALURU RURAL
BENGALURU
REP. BY ITS SECRETARY
2. THE SECRETARY
REGIONAL TRANSPORT AUTHORITY
BENGALURU CENTRAL
HSR LAYOUT
BENGALURU 560 102
3. AGA KHAN
S/O LATE M. KARIM KHAN
MAJOR, C-7-777

BDA FLAT AUSTIN TOWN
BEGALURU- 560 047

4. KARNATAKA STATE ROAD TRANSPORT
CORPORATION
KENGAL HANUMANTHAIAH ROAD
BENGALURU- 560 027
BY ITS MANAGING DIRECTOR

...RESPONDENTS

(BY SRI: KHAMROZ KHAN, AGA FOR R1 AND R2;
SRI: M.E. NAGESH, ADVOCATE FOR CR/R3;
SRI: HAREESH BHANDARY T, ADVOCATE FOR R4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER OF THE LEARNED SINGLE JUDGE PASSED IN WP
NO.19527/2025 DATED 17/03/2026 AND ALLOW THE WRIT
PETITION AS PRAYED FOR AND GRANT SUCH OTHER RELIEFS.

THIS WRIT APPEAL, HAVING BEEN HEARD AND
RESERVED FOR JUDGMENT ON 18.08.2026 AND COMING ON
FOR PRONOUNCEMENT OF JUDGMENT THIS DAY,
T.P.VIVEKANANDA J., PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

The appellant has filed the present writ appeal challenging the order dated 17.03.2026 passed in Writ Petition No.19527 of 2025 by the learned Single Judge, dismissing the writ petition.

2. Brief facts leading to filing of the present writ appeal are that, the appellant - writ petitioner who is a holder of stage carriage permit operating on the route connecting Bengaluru and surrounding areas, was aggrieved by Resolution dated 23.05.2003 of the RTA by which variation/extension has been granted in respect of Permit No.50/1999-2000 from Hirekodigenahalli to Murgamalla and thus, the appellant has challenged the proceedings dated 23.05.2003 in Appeal No.85 of 2018 before the Karnataka State Transport Appellate Tribunal, Bengaluru (for short 'the KSTAT'), on the ground that the impugned Resolution was not passed in the meeting held on 23.05.2003 signed by respondent No.1 on 16.06.2003. However, the same has been inserted subsequently.

3. The appellant states that the appeal filed by him before the KSTAT was with a delay of 14 years 10 months.

Therefore, the KSTAT has rejected the application for condonation of delay, so also, the main appeal. However, while disposing of the appeal, the KSTAT has made serious observation as regards insertion of the impugned Resolution. The Tribunal had also directed the RTA to initiate an enquiry as to the insertion of the impugned Resolution into the Resolution book dated 23.05.2003 and to take action in accordance with law. As directed by the KSTAT, a preliminary enquiry was conducted by the Deputy Transport Commissioner and Senior Regional Transport Officer, Bengaluru Rural. The Enquiry Officer submitted a report to close the proceedings in view of the fact that the issue in question relates to a case which is 17 years old and officers concerned have attained the age of superannuation and in view Rule 214 of KCSRs, no disciplinary proceedings could be initiated against the retired officers. In the report, there is no denial of the allegation of insertion of the impugned Resolution into the Resolution Book dated 23.05.2003.

4. The appellant - writ petitioner has filed Writ Petition No.6582 of 2020 seeking to quash the inserted Resolution passed in Subject No.52 of 2003-04 dated 23.05.2003, so also, the order dated 21.04.2018 passed by KSTAT in Appeal No.85

of 2018. The said writ petition came to be disposed of, directing the RTA to consider the objection of the petitioner and respondent No.2 therein for renewal/transfer of the permit in accordance with the State Government Notification dated 07.03.2019, keeping in mind the operative portion of the order passed by the KSTAT in Appeal No.85 of 2018.

5. The petitioner states that pursuant to the said order, respondent No.1 - RTA has conducted the proceedings on 20.04.2022 and resolved to renew the permit and further authorised the Secretary to issue suitable renewal/transfer of permit on several conditions. At that juncture, the petitioner had filed Writ Petition No.56 of 2025, challenging to quash the Resolution dated 01.10.2024 in Subject No.27 of 2023-24 and the Endorsement No.12 of 2024, by which, the permit of respondent No.3 has been renewed. The said writ petition came to be disposed of, reserving liberty to the petitioner to avail the remedy of revision under Section 90 of the MV Act. Pursuant to the said order, the petitioner had approached KSTAT in Revision Petition Nos.102 of 2022 and 103 of 2022 challenging the Resolution dated 20.04.2022. The said revision petitions came to be dismissed by an order dated 23.06.2025. Challenging the Resolution dated 20.04.2022 and the order

passed by the KSTAT in Revision Petition Nos.102 of 2022 and 103 of 2022, the petitioner has approached this Court by filing Writ Petition No.19527 of 2025. The said writ petition came to be dismissed by an order dated 17.03.2026 holding that the challenge to variation granted in the year 2003 has already been raised in the earlier proceedings before the Tribunal and the same has attained finality and once the earlier proceedings challenging the variation and the enquiry directed by KSTAT having been completed, the petitioner cannot re-agitate the very same issue indirectly by challenging the subsequent renewal of the permit. The said order of the learned Single Judge is challenged in the present writ appeal.

6. We have heard the learned counsel for the appellant and learned counsel for the respondents.

7. Learned counsel appearing for the appellant reiterating the contentions and the grounds urged in the memorandum of writ appeal, submitted that the order passed by respondent No.4 dated 23.06.2025 upholding the Resolution dated 20.04.2022 of respondent No.1 is illegal and erroneous for the following reasons:

i) While passing the impugned orders, both the authorities have not taken note of the serious observations made by KSTAT in Appeal No.85 of 2018 at paragraph Nos.75 and 76, whereby, respondent No.1 had been directed to consider the aspect of insertion of the Resolution into the Resolution Book while considering the renewal application of the permit of respondent No.3, in accordance with law.

ii) Pursuant to the direction in Appeal No.85 of 2018, the enquiry has been conducted by the Secretary of RTA, Bengaluru Rural and Deputy Transport Commissioner, Bengaluru Central. In the said enquiry, there is an observation that one Sri Gopal Rao, has affixed his signatures on the endorsement issued in favour of respondent No.3. However, the Syed Shafi Ahmed who was the RTO at the relevant point of time, has not affixed his signatures. However, the initiation of enquiry against the retired officials was dropped in view of bar contained in Rule 214 of KCSRs.

iii) Respondent No.3 has claimed the variation of his permit based on the Resolution dated 23.05.2003, which did not contain the decision of the RTA to grant variation in favour of respondent No.2. However, the same is as a result of fabrication and insertion of the alleged order of variation into the Resolution Book. Notwithstanding

the long passage of time and the series of litigations, this Court under Article 226 of the Constitution of India, has ample power to set at naught the fraudulent document.

(iv) It is his further contention that the fraud unravels everything including the orders in a collateral proceedings. Therefore, in order to meet the ends of justice, all the actions of respondent Nos.1 and 2 from 2003 till date will have to be declared *ab initio void*.

8. *Per contra*, learned counsel appearing for respondent No.3 seeks to support the order passed by the learned Single Judge, so also, the order passed by the respondent Nos.1 and 2 and KSTAT. It is his contention that since the appeal filed by the appellant challenging the variation has been dismissed on the ground of delay, the appellant was not entitled to challenge the decision of variation dated 23.05.2023 and the subsequent renewal of permit in the revision petition filed in the year 2022.

9. He further contended that the wife of the appellant had earlier challenged the variation granted to respondent No.3, which resulted in dismissal and therefore, the appellant had the knowledge of the variation dated 23.05.2023 way back

in the year 2007 itself. Therefore, filing of the appeal before the KSTAT in the year 2018 has been rightly dismissed by the KSTAT. The writ petition filed challenging the order passed by KSTAT has been disposed of directing respondent No.1 to take note of the order passed by KSTAT while considering the application for transfer or renewal of the permit. The RTA while considering the application for transfer/renewal has taken note of the order passed in Writ Petition No.6582 of 2020 and also the objection raised by the appellant herein and thereafter, the orders have been passed for transfer/renewal of the permit. Similarly, the KSTAT has also taken note of the aforesaid circumstances while dismissing the Revision Petition No.103 of 2022 filed by the appellant. It is his final submission that, all the aforesaid facts and circumstances have been considered by the learned Single Judge while dismissing the writ petition filed by the appellant and therefore, sought for dismissal of the appeal.

10. Learned Additional Government Advocate appearing for respondent Nos.1 and 2 does not dispute the submission on behalf of the appellant as regards the insertion of the Resolution in the Resolution Book dated 23.05.2003. However, sought to justify the impugned orders on the ground that the

same has been questioned by the appellant after long lapse of time.

11. Learned counsel appearing for respondent No.4 - KSRTC toe in line with the submissions of the appellant and hasten to add that if at all there was a request for variation of the permit, it was necessary for RTA to call upon the KSRTC to respond and no such communication was issued to the KSRTC before granting variation. Therefore, contends that no Resolution dated 23.05.2003 granting variation to the permit of respondent No.3 is in existence. Therefore, no reliance can be placed on the alleged Resolution dated 23.05.2003.

12. We have given our anxious consideration to the submissions made by the respective learned counsels and have perused the material on record.

13. What is discernable from the contentions urged by the appellant and the records produced in this writ appeal is that, despite there being no decision taken by respondent No.1 in the meeting held on 23.05.2003 to grant variation, respondent No.3 laid a claim on the basis of an alleged decision which was inserted to the Resolution Book dated 23.05.2003. It is the firm contention of the appellant that the request made by

respondent No.3 for variation of the permit was never the part of the agenda of the meeting dated 23.05.2003. Therefore, question of passing any Resolution granting variation of the permit of respondent No.3 did not arise.

14. We see considerable force in the contention of the learned counsel for the appellant that, if any such request was before respondent No.1, in all probability, notice would have been issued to the affected operator, so also the KSRTC. The findings recorded by KSTAT in Appeal No.85 of 2018, the relevant portion of the said order has already been extracted herein below are very much relevant for present considerations:

"54. On such perusal of the records of the first respondent especially the original resolution book dated 23/05/2003 signed by the first respondent on 16/06/2003, it is clear that the impugned resolution is an insertion into the original resolution book subsequently.

55. The ink with which the impugned resolution is printed, the paper on which the impugned resolution is printed differs from the other pages found in the book. So also the subject number and the serial number mentioned in the impugned resolution do also differ from the subject and serial number which was in the agenda of the meeting on 23/05/2003 inasmuch as

serial No.47 with subject No.51/2003-2004 was in respect of K.Hemachandra Modaliyar and same has been mentioned as belonging to second respondent Hafeez Khan in impugned resolution and serial No.48 with subject No.52/2003-2004 was pertaining to one K.R. Ramesh in the agenda but the it has been alerted in the name of second respondent Smt. Banizaan in the impugned resolution.

56. Further, for the pages of the impugned resolution in the book, there is no page number.

57. Earlier to the impugned resolution, in respect of the serial No.41 and, the page number is mentioned as 21 to 23 for Serial No.42 again the page number is mentioned as 24.

58. In between serial No.41 & 42 in the resolution book, Impugned resolution have been inserted subsequently in the original book. This aspect would prima facie establish the fact that the second respondent who is the beneficiary of the impugned resolution must have had his/her had in alleged insertion.

59. Thus, there is a sufficient force in the argument of Sri. B.R.S. Gupta that the impugned resolution are obtained by playing fraud.

64. Firstly, if an order has been obtained by playing fraud, such an order will have to be treated as **void abintio** and any benefits obtained in consequence with the said fraudulent order will have no legal sanction.

67. Secondly, the application filed by the second respondent seeking variation, which is allegedly had been granted by the first respondent through the inserted impugned -resolution as discussed supra is against law inasmuch as it violates the embargo of maximum limit of 24 kms found in proviso II sub section 3 of the section 80 of Motor Vehicles Act, 1988.

69. In the present, in the impugned resolution, the variation granted to the second respondent is to the extent of 70 kms which is **per se** up against the maximum distance variation that could be granted under proviso II sub section 3 of the section 80 of Motor Vehicles Act. Thus, the variation by virtue of impugned resolution is **per se** illegal and it is not a mere irregularity which could be cured.

71. When application of the second respondent was not at all listed for consideration in the meeting dated 23/05/2003, how impugned resolution came to be passed by the first respondent is also a serious question that remains unanswered and raises reasonable suspicion that impugned resolution is a subsequent insertion.

72. Therefore, from the above discussion, it is crystal clear that the impugned resolution are suspicious resolution prima facie and must have been inserted

subsequent to signing resolution book by the first respondent on 16/06/2003.

75. Having held thus, it is just and necessary for this Tribunal to direct an enquiry to be held by the first respondent as to the insertion of the impugned resolution in the resolution book 23/05/2003."

15. In the said order, KSTAT has seriously observed that the alleged Resolution dated 23.05.2003 is a fraud and fabrication. It is in that light, direction was issued to initiate enquiry as to the insertion of the Resolution into the Resolution Book dated 23.05.2003. Though, such an enquiry was sought to be conducted by obtaining preliminary report, however, the further action was given up due to the fact that the officers and the officials who were working at the relevant point of time are either retired or dead. The report of the preliminary enquiry does not say that no such insertion was taken place. Therefore, respondent Nos.1 and 2 cannot disown the allegation of insertion of the Resolution.

16. It is necessary to notice that the appeal filed by the appellant before the KSTAT was rejected on the ground of delay and also on the ground that the wife of the appellant had earlier filed appeal and was unsuccessful. Though in Writ

Petition No.6582 of 2020, the learned Single Judge had directed respondent No.1 to take note of the observation made by KSTAT in Appeal No.85 of 2018 while considering the application for renewal/transfer of permit, however, neither respondent No.1 in the proceedings dated 01.10.2024 nor KSTAT in the Revision Petition No.103 of 2022 have taken note of and considered the observation made by the KSTAT in Appeal No.85 of 2018. In the order which is impugned in this writ appeal, the learned Single Judge has rejected the contention of the appellant only on the ground that challenge to the variation has been rejected in the earlier proceedings and therefore, the same cannot be adjudicated in the present proceedings. Learned Single Judge further observed that while passing the order dated 20.04.2022 granting renewal of permit, the report of the enquiry has been taken note of and therefore, the appellant cannot re-agitate the very same issue indirectly by challenging the subsequent renewal of permit. The said observations is unacceptable for the reason that the entire claim of respondent No.3 regarding variation of permit is based on a decision, which was not taken by respondent No.1 and the said claim is based on a fabricated or inserted decision as observed by the KSTAT in the proceedings referred to supra.

17. It is noticed that other than basing the claim of variation on the alleged Resolution dated 23.05.2003, respondent No.3 has not produced or relied upon any other corresponding document to establish the fact that respondent No.3 had sought for variation and the same has been considered by the Authorities concerned in a manner known to law.

18. It is well known proposition and principle of law that the fraud and misrepresentation will unravel every solemn act of the parties. The Hon'ble Supreme Court went to the extent of holding that any order or judgment obtained by playing fraud on the Court, Tribunal or Authority is a *nullity* and *non-est* in the eye of law. If the Courts have held that the judicial orders are held to be *non-est* in the eye of law, if the same having been obtained by playing fraud or misrepresentation, the orders or benefits obtained at the hands of the Statutory Authorities or the Administrative Authorities would not be on a higher pedestal. The orders obtained at the hands of the Statutory Authorities or the Administrative Authorities by playing fraud or misrepresentation are more vulnerable to judicial review of administrative action.

19. The proposition that fraud unravels everything has been explained in detail by the Hon'ble Supreme Court in the case of ***Vishnu Vardhan @ Vishnu Pradhan Vs. State of Uttar Pradesh and Others***¹. The relevant paragraph of the said order is extracted herein below:

"60. Be that as it may, obtaining of the impugned order by Reddy in his favour by playing fraud on the High Court is conspicuous by its presence. Thus, we find Vishnu's core argument to be creditworthy and compelling for us to hold that judicial orders procured by Reddy by subverting the judicial process through fraud and concealment of material facts cannot be permitted to stand."

15. In the said Judgment, the Supreme Court referred to several decisions in Paragraph No.61 and concluded in Paragraph No.64 holding that given the deception involved, the impugned order and the decision of the Court procured are tainted by fraud and thus, lack legal sanctity and validity. The said paragraphs read as under:

"61. In decisions abound, the Courts have consistently nullified orders obtained through fraudulent means. Key excerpts from some of these decisions read thus:

¹ 2025 SCC Online SC 1501

a. *In United India Insurance Co. Ltd. v. Rajendra Singh*, this Court reiterated that fraud unravels everything:

3. "Fraud and justice never dwell together" (*fraus et jus nunquam cohabitant*) is a pristine maxim which has never lost its temper over all these centuries. Lord Denning observed in a language without equivocation that "no judgment of a court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for, fraud unravels everything" (*Lazarus Estates Ltd. v. Beasley*, [[1956] 1 Q.B. 702 : [1956] 1 All ER 341 : [1956] 2 WLR 502 (CA)]).

b. *In Shrisht Dhawan (Smt) v. Shaw Bros*, it was held:

20. *Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct. Michael Levi likens a fraudster to Milton's sorcerer, Comus, who exulted in his ability to, 'wing me into the easy-hearted man and trap him into snares'. It has been defined as an act of trickery or deceit. In Webster's Third New International Dictionary fraud in equity has been defined as an act or omission to act or concealment by which one person obtains an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another. In Black's Legal Dictionary, fraud is defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or surrender a legal*

right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury.....

c. In A.V. Papayya Sastry v. Govt. of A.P., this Court held:

21. Now, it is well-settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law. Before three centuries, Chief Justice Edward Coke proclaimed:

"Fraud avoids all judicial acts, ecclesiastical or temporal."

22. It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non est in the eye of the law. Such a judgment, decree or order—by the first court or by the final court—has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings.

*23. ****

24. In Duchess of Kingstone, Smith's Leading Cases, 13th Edn., p. 644, explaining the nature of fraud, de Grey, C.J. stated that though a judgment would be res judicata and not impeachable from within, it might be impeachable from without. In other words, though it is not permissible to show that the court was "mistaken", it might be shown that it was

"misled". There is an essential distinction between mistake and trickery. The clear implication of the distinction is that an action to set aside a judgment cannot be brought on the ground that it has been decided wrongly, namely, that on the merits, the decision was one which should not have been rendered, but it can be set aside, if the court was imposed upon or tricked into giving the judgment.

25. It has been said: fraud and justice never dwell together (fraus et jus nunquam cohabitant); or fraud and deceit ought to benefit none (fraus et dolus nemini patrocinari debent).

d. The judgment by Denning, L.J. in Lazarus Estates Ltd. (supra), which has since been quoted with approval by this Court in a catena of decisions including Nidhi Kaim (supra), asserted intolerance for fraud in legal proceedings in the following words:

No court ... will allow a person to keep an advantage which he has obtained by fraud. [...] Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved, it vitiates judgments, contracts and all transactions whatsoever....

64. In light of the above discussion, we feel no hesitation to hold that given the deception involved, the impugned order and the decision of this Court dated 5th May, 2022 in Reddy Veerana (supra) procured by Reddy are tainted by fraud and, thus, lack legal sanctity and validity."

16. The Supreme Court in the case of **MEGHAMALA AND OTHERS VS. G.NARASIMHA REDDY AND OTHERS²**, at paragraphs No.28 to 36 has held that the fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The said Paragraphs read as under:

"28. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent Authority, such order cannot be sustained in the eyes of law.

"Fraud avoids all judicial acts ecclesiastical or temporal." (vide *S.P.Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath. In Lazarus Estate Ltd. Vs. Besalay*, the Court observed without equivocation that "no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything."

29. In *Andhra Pradesh State Financial Corporation Vs. M/s. GAR Re-Rolling Mills and State of Maharashtra & Ors. Vs. Prabhu* this Court observed that a writ Court, while exercising its equitable jurisdiction, should not act as to prevent perpetration of a legal fraud as the courts are obliged to do justice by promotion of good faith. "Equity is, also, known to

² (2010) 8 SCC 383

prevent the law from the crafty evasions and sub-letties invented to evade law."

30. In Smt. Shrisht Dhawan Vs. M/s. Shaw Brothers. it has been held as under:- (SCC p.553, para 20)

"20. Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct."

31. In United India Insurance Co. Ltd. Vs. Rajendra Singh, this Court observed that "Fraud and justice never dwell together" (fraus et jus nunquam cohabitant) and it is a pristine maxim which has never lost its temper over all these centuries.

32. The ratio laid down by this Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit to the persons who played fraud or made misrepresentation and in such circumstances the Court should not perpetuate the fraud. (See District Collector & Chairman, Vizianagaram Social Welfare Residential School Society. Vs. M. Tripura Sundari Devi ; Union of India Vs. M.Bhaskaran, Kendriya Vidyalaya Sangathan Vs. Girdharilal Yadav; State of Maharashtra v. Ravi Prakash Babulalsing Parmar ; Himadri Chemicals Industries Ltd. Vs. Coal Tar Refining Company and Mohammed Ibrahim Vs. State of Bihar.

33. Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn

proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression "fraud" involves two elements, deceit and injury to the person deceived. It is a cheating intended to get an advantage. (Vide Dr. Vimla Vs. Delhi Administration, Indian Bank Vs. Satyam Fibres (India) Pvt. Ltd., State of Andhra Pradesh Vs. T.Suryachandra Rao ; K.D. Sharma Vs. SAIL and Central Bank of India Vs. Madhulika Guruprasad Dahir.

34. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including resjudicata. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Suppression of a material document would also amount to a fraud on the court. (Vide S.P. Chandalvaraya Naidu; Gowrishankar Vs. Joshi Amba Shankar Family Trust. Ram Chandra Singh Vs. Savitri Devi, Roshan Deen Vs. Preeti Lal, Ram Preeti Yadav Vs. U.P. Board of High School & Intermediate Education and Ashok Leyland Ltd. Vs. State of T.N).

35. In kinch Vs. Walcott, it has been held that "...mere constructive fraud is not, at all events after long delay, sufficient but such a judgment will not be set aside upon mere proof that the judgment was obtained y perjury."

Thus, detection/discovery of constructive fraud at a much belated stage may not be sufficient to set aside the judgment procured by perjury.

36. From the above, it is evident that even in judicial proceedings, once a fraud is proved, all advantages gained by playing fraud can be taken away. In such an eventuality the questions of non-executing of the statutory remedies or statutory bars like doctrine of res judicata are not attracted. Suppression of any material fact/document amounts to a fraud on the court. Every court has an inherent power to recall its own order obtained by fraud as the order so obtained is non est."

20. If the law laid down by the Hon'ble Supreme Court in the aforesaid cases and the cases referred to therein are applied to the case on hand, it is crystal clear that in the absence of the valid resolution granting variation of the permit of respondent No.3, all the proceedings commencing from the year 2003 till date are to be revisited by the authorities concerned.

21. We have also taken note of the fact that the transferor of respondent No.3 died on 23.01.2013 and the renewal of permit has been granted with effect from 27.07.2022 and thus, it cannot be said that the licensee was operating the services as on 18.12.2014 in order to treat the said permit as saved permit under the comprehensive area scheme published on 07.03.2019. The said fact has not been taken note of by respondent No.1- KSTAT while considering the revision petition filed by the appellant. This is another reason to interfere with the order passed by the writ court.

22. Another contention urged by the appellant before respondent No.1 and KSTAT, so also, before the writ court that as per the second proviso to sub-Section (3) of Section 80 of the Motor Vehicles Act, the maximum variation that could be granted is upto 24 kilometres. However, under the alleged Resolution dated 23.05.2003, the variation claimed by respondent No.1 is to the extent of 70 kilometres, which is contrary to the aforementioned provision.

23. In light of the aforesaid discussions and reasoning and taking note of the authoritative pronouncement of the Hon'ble Supreme Court of India in the aforementioned

decisions that the fraud unravels everything and every solemn act and the judicial orders obtained are *nullity* and *non-est* in the eye of law, the present appeal requires to be allowed in part.

24. In the result,

(i) The writ appeal is ***allowed in part.***

(ii) The order dated 17.03.2026 passed in Writ Petition No.19527 of 2025 by the learned Single Judge, is set aside.

(iii) Consequently, the orders passed by respondent No.1 dated 20.04.2022 vide Annexure-E and the order of KSTAT in Revision Petition No.103 of 2022 dated 23.06.2025 at Annexure-M are hereby quashed.

(iv) The matter is remitted to the KSTAT to consider the Revision Petition No.103 of 2022 filed by the appellant taking note of the observation made by the KSTAT in Appeal No.85 of 2018 dated 21.04.2018, at Annexure-C, so also the observation made in this judgment and decide the

matter within an outer limit of three months from the date of receipt of copy of this order.

No order as to costs.

After pronouncement of the judgment, learned counsel for respondent No.3 submitted that respondent No.3 is operating services in terms of variation/permit and the said position may be continued till the consideration of the remanded matter before the KSTAT.

Considering the said request, we direct that the *status quo* with regard to variation/renewed permit shall be maintained, till the disposal of the remanded matter, at the hands of the KSTAT.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

PB & BGN