State can Charge Fees only if there is Quid Pro Quo

"as a matter of inexorable logic, the power to levy a fee must be traceable to a statute, clearly expressed, never left to conjecture, inference or executive convenience."

- Hon'ble High Court of Karnataka

August 28, 2026

Dear Reader,

The High Court of Karnataka, in a judgment dated August 28, 2026, in *Solar Power Developers Association v. State of Karnataka & Ors., WP No. 15113/2022*, has read down the fee clause (Clause 7.2) of the Karnataka Renewable Energy Policy 2022-27 holding that fees can be charged only where there is *quid pro quo*, i.e. some corresponding service or benefit from the State.

Facts:

The solar and wind developers and industry associations challenged four clauses of the Karnataka Renewable Energy Policy 2022-27 ("**Policy**"). Clause 1.2(d) applied the Policy to projects sanctioned or under development before its commencement. Clause 6.1 required a Karnataka Government Order ("**GO**"), on payment of fees, even for inter-State transmission system ("**ISTS**") projects won through central competitive bidding. Clause 6.2 capped land use at 3.5 acres per MW (AC) for solar projects and 4 acres per wind turbine generator. Clause 7.2 raised the application fee from Rs. 10,000 to Rs. 35,000 per MW and introduced a performance bank guarantee.

During the pendency of the proceedings, the State Government amended the Policy so that it did not apply to projects before its commencement and raised the land limits to 4 acres per MW for solar and 5 to 10 acres per turbine for wind, depending on turbine size.

The State Government later began collecting fees, 30% with the application and 70% with the bank guarantee, under Clause 7.2 of the Policy without there being any corresponding service being rendered by State Government. On October 25, 2023 the Ministry of Power issued a circular reiterating that State levies on generation of electricity are illegal.

The petitioners argued that centrally bid ISTS projects use no State infrastructure therefore the fees lacked *quid pro quo* and the Centre had already collected its own fees and guarantee. It was further argued that land cap ignored unusable land and violated Article 14.

Findings:

1. **The State may require a Government Order, even for centrally bid ISTS projects (Clause 6.1):** Relying on *Ramayana Ispat (P) Ltd. v. State of Rajasthan* (2025) 8 SCC 747, the Court held that State Government is *empowered to regulate open access in the State when the distribution networks are within the State.*
2. **The land-use cap is arbitrary where the developer acquires or leases the land (Clause 6.2):** The Court held that *"if the said restriction is imposed on utilization of land when the land is acquired by the project developers, the restriction undoubtedly would be in violation of possession of lands by them qua the project."* The cap survives only where the Government acquires land and hands it over to project developer.
3. **A fee needs the authority of law and *quid pro quo* (Clause 7.2):** The Court held the clause to be in conflict with the settled principle that *"unless there is quid pro quo the State cannot extract fee in any indirect manner by an executive fiat or a circular"*. The Court further held that *"the power to levy a fee must be traceable to a statute, clearly expressed, never left to conjecture, inference or executive convenience."*

Relief:

The *Court* allowed the Writ Petitions and on the specific clauses under challenge, it held that Clause 1.2 is rendered infructuous due to the amendment; the requirement of a Government order in Clause 6.1. to begin execution of work is sustainable; the land usage restriction in Clause 6.2 is arbitrary only if the land is acquired or leased by the renewable energy project developer. The Court further held that in the event the Government acquires the land and hands it over to the project developer Clause 6.2 would become applicable; and read down Clause 7.2 imposing fee or charges under the Policy as unless there is quid pro quo the State cannot extract fee in any indirect manner by an executive fiat or a circular and the power to levy a fee must be traceable to a statute, clearly expressed, never left to conjecture, inference or executive convenience.