

**HIGH COURT OF TRIPURA
AGARTALA**

Arb.P. No.04/2025

FEEDBACK ENERGY DISTRIBUTION COMPANY LIMITED (FEDCO)
Represented through its Resolution Professional through Mr. Ankit Goel, a
Resolution Professional bearing IBBI Reg. No. IBBI/IPA-001/IP-P-02671/
2022-2023/14088 Having Office at:- 64, Okhla Industries, Phase III, Pin Code-
1100020, Email ID:-feedbackenergy.abc@gmail.com
ankitgoel@aaainsolvency.in

..... Petitioner(s).

V E R S U S

M/s. TRIPURA STATE ELECTRICITY CORPORATION LIMITED
(TSECL) Through Chairman/Managing Director, Bidyut Bhaban, Banamalipur,
Agartala, West Tripura, Pin Code-799001, Email ID-director.finance@tsecl.in,
dogra in @yahoo.com, managing.director@tsecl.in

.....Respondent(s).

For Petitioner(s) : Mr. Amrit Lal Saha, Advocate.

For Respondent(s) : Mr. Kushal Deb, Advocate,
Mr. Dhruba Jyoti Saha, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

Order

22/08/2025

Heard the counsel for the parties.

This application has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 by the applicant represented by the Resolution Professional for appointment of an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 for adjudication of the disputes between the parties arising out of the Input Based Distribution Franchisee Agreement dt. 01.07.2020 between them.

It is not in dispute that the applicant-company was proceeded against by the IndusInd Bank Limited before the NCLT, New Delhi and an order dt. 12.12.2023 in C.P.(IB)-477/2023 was passed appointing Mr. Ankit Goel as a Resolution Professional for the applicant-company and moratorium

under Section 14 of the Insolvency and Bankruptcy Code, 2016 was also declared.

Counsel for the petitioner relies on paragraph-24 of the judgment of the Supreme Court in *New Delhi Municipal Council vs. Minosha India Limited (Civil Appeal No.3470 of 2022)* reported in *2022 INSC 486* to contend that the proceedings imposing moratorium do not include an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 by a corporate debtor or for that matter, any other proceeding by the corporate debtor against another party. He also contends that there is no express exclusion of the jurisdiction of the Court or authorities to entertain any such proceeding at the hands of the corporate debtor.

This legal position is not disputed by the counsel for the respondent.

Admittedly, Clause 17.2.5 of the above referred agreement provides for arbitration under the Arbitration and Conciliation Act by a panel consisting of three arbitrators.

There is no dispute that the applicant had issued a notice to the respondent on 09.08.2024 nominating Justice S.C. Das, Former Judge, Gauhati High Court and High Court of Tripura as its arbitrator and demanding that the respondent appoints its arbitrator.

No reply was given by the respondent to the said notice.

Counsel for the respondent does not dispute the said fact. He also states that the respondent also has claims against the applicant.

Since there exists a dispute between the parties which requires adjudication through arbitration as agreed to by them, and since the arbitration clause 17.2.5 requires arbitration by three arbitrators, and since the applicant

has already nominated its arbitrator, Justice Pinaki Chandra Ghose, former Judge, Supreme Court is appointed as an arbitrator on behalf of the respondent to adjudicate the dispute between the parties subject to submission of his consent and a declaration in terms of Section 12 read with Schedule VI of the Arbitration and Conciliation Act, 1996.

The said arbitrator and the arbitrator already nominated by the applicant shall appoint a third arbitrator by mutual agreement so that the dispute between the parties may be adjudicated by the three member panel of Arbitrators as per the terms and conditions of the agreement arrived at between the parties.

Learned Arbitrators are requested to take into consideration the Schedule of Model Fee prescribed under Schedule IV and the timeline prescribed under Section 29-A of the Arbitration and Conciliation Act, 1996 as amended.

Registry is directed to communicate the instant order along with a copy of the entire pleadings of the instant application to the learned Arbitrator forthwith.

The instant petition is disposed of.

Pending application(s), if any, shall also stand disposed of.

(M.S. RAMACHANDRA RAO, CJ)

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Date: 2025.08.25 14:02:36 +05'30'