

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.213 OF 2025

Taiyung Solar Projects Private Limited ....Petitioner

Versus

Shivamrut Dudh Utpadak Sangh Maryadit ....Respondent

**Mr. Prakash Pandey** *a/w. Dhruvi Patni, for Petitioner.*

**Mr. Chinmay Patil** *h/f. Abhijit D. Kulkarni, for Respondent.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : DECEMBER 01, 2025

**ORDER :**

1. This Petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (***“the Act”***) seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under a Power Purchase Agreement dated January 29, 2019 (***“Agreement”***). The arbitration agreement is contained in Clause 16.14 of the Agreement (Found at Page No.62 of the Petition) of the Agreement. In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

2. The Petitioner has invoked arbitration on June 19, 2025. Apart from a reply on July 30, 2025, there has been no response from the Respondent. Therefore, no useful purpose would be served by keeping

this matter pending any further on the docket of this Court. It is seen from the record that the Petitioner has already nominated an arbitrator as seen in the invocation notice dated June 19, 2025. The Respondent has not nominated its nominee arbitrator.

3. The scope of review under Section 11 is explicitly set out in Section 11(6A) of the Act. It is now trite law, with particular regard to the Supreme Court's decision rendered by a seven-judge Bench in the *Interplay Judgement*<sup>1</sup> followed by multiple others, including *SBI General*<sup>2</sup> and *Pate*<sup>3</sup> that the Section 11 Court ought not to venture beyond examining the existence of a validly existing arbitration agreement that has been formally executed. Even questions of existential substance is a matter that falls squarely in the domain of the arbitral tribunal, in view of Section 16 of the Act.

4. Being satisfied that an arbitration agreement is validly in existence, and that arbitration has been duly invoked, it is in the fitness of things to appoint a nominee arbitrator on behalf of the Respondent.

5. In these circumstances, Justice (Retd.) Mridula Bhatkar, a Former Judge of this Court (Address : 501, Saket, Near Bal Mohan Vidya Mandir, M. B. Raut Marg, Shivaji Park, Dadar (W), Mumbai –

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<sup>1</sup> *In Re: Interplay Between Arbitration Agreements under the Arbitration and Conciliation Act, 1996 and Stamp Act, 1899 - (2024) 6 SCC 1*

<sup>2</sup> *SBI General Insurance Co. Ltd. Vs. Krish Spinning - 2024 SCC OnLine SC 1754*

<sup>3</sup> *Ajay Madhusudan Patel Vs. Jyotrindra S. Patel - 2024 SCC OnLine SC 2597*

400 028; Pune Office – Miracle Glory, Sopan Baug, Balewadi, Pune –  
411 045 is hereby nominated as the arbitrator on behalf of the  
Respondent leaving it to these two arbitrators to select the third  
arbitrator who shall act as the presiding arbitrator.

6. Consequently, the Petition is *finally disposed of* in the aforesaid  
terms.

7. A copy of this Order will be communicated to the nominee  
Arbitrators by the Advocates for the parties within a period of one week  
from the date on which this order is uploaded on the website of this  
Court.

8. Needless to say, nothing contained in this order is an expression  
of an opinion on merits of the matter or the relative strength of the  
parties. All issues on merits are expressly kept open to be agitated  
before the arbitral tribunal appointed hereby.

9. All actions required to be taken pursuant to this order shall be  
taken upon receipt of a downloaded copy as available on this Court's  
website.

**[ SOMASEKHAR SUNDARESAN, J.]**