

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/123/2026

DAMODAR VALLEY CORPORATION
VS
SRC METALICKS PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 18th May, 2026.

Appearance

Ms. Amrita Pandey, Adv.
Ms. S. Auddya, Adv.
...for the petitioner

The Court:- Despite paper publication, none appears on behalf of the respondent.

The petitioner has preferred the present petition under Section 11 (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a nominee Arbitrator on behalf of the respondent so as to enable the constitution of an arbitral tribunal for adjudication of the dispute between the parties.

Learned Counsel for the petitioner submits that the parties entered into a power supply agreement dated 24.05.2006 for supply of electricity in bulk from Mejia Thermal Power Station of the petitioner to the project site of the respondent situated at Village: Nandanpur, Mouza: Ramkrishnapur, P.O.: Ranipur, P.S. Mejia, District – Bankura, West Bengal for a period of five years.

Learned Counsel for the petitioner submits that the respondent was irregular in payment towards the electricity consumption charges, hence, the electricity connection was disconnected in November, 2013.

It is further submitted that in view of the new Tariff connection given by the West Bengal Electricity Regulatory Commission, the petitioner raised a differential tariff claim for the period of 2006 to 2013 by issuing a bill on 01.01.2021.

According to the petitioner there is an outstanding amount Rs.11,87,33,906/-. Learned Counsel for the petitioner further submits that the petitioner issued a notice dated 27.02.2025 under Section 21 of the Arbitration and Conciliation Act, 1996 invoking the arbitration clause, being clause 24 of the power supply agreement dated 24.05.2006. The petitioner nominated Mr. Surendra Kumar as the nominee Arbitrator. Despite receipt of the notice the respondent failed to nominate its arbitrator. In the aforesaid circumstances, the petitioner has approached this Court seeking appointment of a nominee arbitrator on behalf of the respondent so that the nominee arbitrator and the arbitrator of the petitioner can appoint a presiding arbitrator to adjudicate the dispute between the parties in terms of the arbitration clause.

The dispute between the parties arise out of the alleged default in clearing the outstanding amount arising out of the power supply agreement dated 24.05.2006. The notice invoking arbitration was duly issued on 27.02.2025 and the same was duly received by the Respondent.

Prima facie, it appears that the dispute between the parties have arisen out of the power supply agreement dated 24.05.2006 which contains an arbitration clause being clause 24 thereof.

However, despite receipt of the notice, the respondent failed to nominate the arbitrator.

Accordingly, this Court is satisfied that the present case is a fit case for reference to arbitration. Accordingly, this Court appoints Mr. Sakya Sen, learned Senior Counsel as the nominee Arbitrator on behalf of the respondent to adjudicate upon the dispute between the parties. Both the nominated Arbitrator are requested to take immediate steps for appointment of the presiding Arbitrator in terms of the arbitration cause contained in the power supply agreement dated 24.05.2006.

All questions relating to arbitability of the dispute, admissibility of the claim, limitation and other issues are kept open to be urged before the arbitral tribunal.

The appointment of the nominee arbitrator shall be subject to compliance under Section 12 of the Arbitration and Conciliation Act, 1996. After the constitution of the arbitral tribunal, the learned Arbitrator shall fix the remuneration in terms of the Fourth Schedule of the said Act.

The order of this Court shall be communicated to the learned Arbitrator to take necessary steps.

With the aforesaid direction, the present petition stands disposed of.

(GAURANG KANTH, J.)