OCD- 27

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/813/2026
M/S ORIANO CLEAN ENERGY PRIVATE LIMITED
VS
M/S BIRLA CORPORATION LIMITED

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date : 14th October, 2026.

Appearance:-
*Ms. Mayuri Ghosh, Adv.*
*Ms. Poulami Bhowmick, Adv.*
*...for petitioner.*

*Mr. Debraj Sahu, Adv.*
*Ms. Deblina Banerjee, Adv.*
*...for respondent.*

The Court: - Affidavit of service is taken on record.

The petitioner has preferred the present petition under Section 11 of the Arbitration and Conciliation Act, 1996, seeking appointment of a sole Arbitrator to adjudicate the disputes between the parties.

Learned Counsel for the petitioner submits that the petitioner was a successful bidder in a tender process initiated by the respondent and pursuant thereto, the parties entered into an agreement dated 25.04.2019 for the work of design, engineering, supply, supervision, erection, installation, commissioning, testing, synchronisation and two years of operation and maintenance service in respect of three solar power projects situated at Satna(Madhya Pradesh), Chanderia (Rajasthan), and Maihar (Madhya Pradesh).

It is submitted that the present dispute arose out of the Chanderia project which involved installation of a 3.60 MWDC solar power plant.

Learned Counsel for the petitioner submits that upon successful erection, testing and commission of the solar power plant, the petitioner continued to render operation and maintenance services for a period of two years till 31st August, 2021. It is further submitted that the respondent failed to release the balance 5% of the contract value which was payable upon submission of a valid performance bank guarantee covering the operation and maintenance obligations.

Learned Counsel for the petitioner submits that she invoked the arbitration agreement by issuing a consolidated notice dated 1st October, 2025 under Section 21 of the Arbitration and Conciliation Act, 1996 proposing the name of Mr. Panchanand, Advocate (Retd. Judge) as the sole Arbitrator.

Learned Counsel for the petitioner submits that initially they had approached the National Company Law Tribunal, Kolkata by filing an application under Section 9 of the Insolvency and Bankruptcy Code, 2016. Such petition was withdrawn and the parties have approached this Court for appointment of the Arbitrator.

Learned Counsel for the respondent submits that they had replied to the notice dated 1st October, 2025 by way of a letter dated 25th October, 2025 wherein they declined to consent to the nomination of the sole Arbitrator and instead proposed the name of Mr. Sakya Sen, Senior Advocate as an Arbitrator.

In view of the lack of consensus between the parties regarding the appointment of Arbitrator, the petitioner has filed the present Section 11 application.

Learned Counsel for the respondent states that he has no objection to the appointment of the Arbitrator and the parties have mutually agreed before this Court to the appointment of Mr. Chayan Gupta, Advocate as the Arbitrator.

Accordingly, this Court appoints Mr. Chayan Gupta, Advocate, Bar Library Club, 2nd Floor (Mobile No. 9051511986) as the learned sole Arbitrator to adjudicate the disputes between the parties.

The appointment of the learned sole Arbitrator shall be subject to compliance with Section 12 of the Arbitration and Conciliation Act, 1996.

The learned sole Arbitrator shall be entitled to fix the remuneration in accordance with the Fourth Schedule of the Act.

A copy of this order shall be communicated by the petitioner to the learned sole Arbitrator for necessary action.

All issues relating to arbitrability of the dispute, limitation or any other issues are kept open to be urged before the learned sole Arbitrator.

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

(GAURANG KANTH, J.)

R. D. Barua