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NCLAT extends protection given to IL&FS dirs from being prosecuted by banks as wilful defaulters

A two-member bench stated that the banks will proceed against the professional directors of the newly constituted board only after obtaining permission from the National Company Law Appellate Tribunal (NCLAT).

Insolvency appellate tribunal NCLAT has extended protection given to the directors of the new board of the debt-ridden firm IL&FS from being prosecuted by banks as wilful defaulters.

A two-member bench stated that the banks will proceed against the professional directors of the newly constituted board only after obtaining permission from the National Company Law Appellate Tribunal (NCLAT).

Earlier on April 4, 2025, the NCLAT passed an order to protect those directors from prosecution by banks, who are part of the newly formed board of the IL&FS after takeover by the government.

However, the NCLAT had then given a go-ahead to state-run banks - Canara Bank and Indian Bank - to pursue proceedings against former IL&FS directors, who are not part of the new board, to declare them as wilful defaulter.

"The order dated April 4, 2025, is still continuing. We are of the view that the said directions as per order dated October 15, 2018, have been extended to the Professional Directors who are reappointed in the Board," the NCLAT bench, comprising its Chairperson Justice Ashok Bhushan and Member (Technical) Barun Mitra, said.

The government had appointed a new board for October 1, 2018, after the Rs 90,000 crore debt surfaced.

On October 15, 2018, the NCLAT passed an interim order granting a moratorium, halting creditor actions against the IL&FS Group and its 302 group entities, as it faced a massive liquidity crisis.

The tribunal, on January 19, 2026, in its previous order of April 4, 2025, has already granted leave to the banks to make an application, if they want any further proceedings against the directors of IL&FS working with the new board.

"In view of the aforesaid direction, the bank shall proceed against the Professional Directors of the newly appointed board only after obtaining leave from the Court," said the NCLAT.

It further said that banks will not proceed further with the notices issued to IL&FS directors (in the new

board), which have been given after the order dated April 4, 2025, onwards, "without obtaining leave of this court".

According to the latest affidavit filed by the new board before the NCLAT, "As on September 30, 2025, the total debt discharged to creditors of the Respondent No 1 Group (IL&FS) aggregates to Rs 48,463 crore".

IL&FS has maintained the target of Rs 61,000 crore from the overall debt resolution of its assets, "which aggregates to approximately 61.39 per cent of the total external debt outstanding of Rs 99,355 crore", it said.

On October 1, 2018, the NCLT superseded the existing board of IL&FS on the recommendation of the central government after the mega-crisis at the firm. PTI