CoC Cannot Withdraw Resolution Plan Nod: SC

New Delhi: The Supreme Court has ruled that a Committee of Creditors (CoC) cannot withdraw its approval given to a resolution plan after the same has been placed before the National Company Law Tribunal (NCLT) for approval even if the debt-laden company's financial position has improved considerably.

A bench of Justices JB Pardiwala and K Vinod Chandran, while disposing of the appeal filed by Bank of India and other CoC members, including Canara Bank, India Infrastructure Finance, Union Bank of India, UCO Bank and Punjab National Bank, said the resolution plan remains binding between CoC and the successful resolution applicant (SRA), and the improved profitability of the corporate debtor alone cannot be a reason to refuse approval of the resolution plan if it meets the requirements under IBC.

It noted that a resolution plan is not an ordinary contract, but approved through the statutory framework of the IBC, including the voting mechanism under Section 30(4), under which even dissenting creditors are bound.

However, the bench directed the tribunal to consider all pleas together — application for approval of the resolution plan and holding company's application seeking implementation of a one-time settlement and an end to the corporate insolvency resolution process.



In this case, Bank of India vs SM Kamal Pasha, the CoC had unanimously decided to withdraw the resolution plan as TD Toll Road's financial position had substantially improved during the years when the resolution professional was in management.

The lenders argued that permitting the plan to proceed would give the SRA a windfall as it would have to bring in significantly less fresh funding than contemplated when the resolution plan was submitted. **–Indu Bhan**