

LEGAL UPDATES

HC QUASHED THE ORDER PROSECUTING DHFL'S EX-DIRECTORS AND RELEASES DHFL FROM CBI CASE

Dewan Housing Finance Corporation Ltd. (DHFL) got released from the CBI case after the Hon'ble Bombay High Court overturned the CBI's decision to refuse to release the Corporate Debtor from the CBI case and allow DHFL to be prosecuted through its former Directors under IBC Section 32A

According to DHFL, given that the Corporate Debtor had gone through the insolvency process, the Directors should not have been prosecuted because they were removed by the RBI from the Board of Directors and had no influence over DHFL's management under Section 32A of the IBC.

According to the Court, there was no justification for rejecting this motion. It further held that the Special Judge, CBI erred by allowing DHFL to be prosecuted through its Directors, who were fired by the RBI two years earlier.

Justice Sandeep K. Shinde of Hon'ble Bombay High Court, while perusing the case, stated, *"The immunities sought by the Corporate Debtor though conditional; yet all these conditions have been fulfilled and satisfied viz. –*

- (i) Resolution Plan regarding the Corporate Debtor has been approved by the Adjudicating Authority u/s 31 of IBC,*
- (ii) Resolution Plan approved caused and resulted in a change in management of the Corporate Debtor and*
- (iii) change in management is in favour of persons who were not related to party of Corporate Debtor.",*

The court thought that "Thus...immunities under 32A of IBC, cannot be denied to Corporate Debtor."

The Hon'ble Court while concluding, noted that several parties, including the intervenor (DHFL's former Director), have filed numerous appeals under Sections 32 read with 31 of the IBC against the resolution plan approval decision, seeking interim relief, Hon'ble High Court held, *"Be that as it may, although Section 32 provides for an appeal against an order approving the Resolution Plan, yet, the mere filing of appeal would by itself not operate as a stay, until a specific prayer is made, and orders thereon are passed..."*