

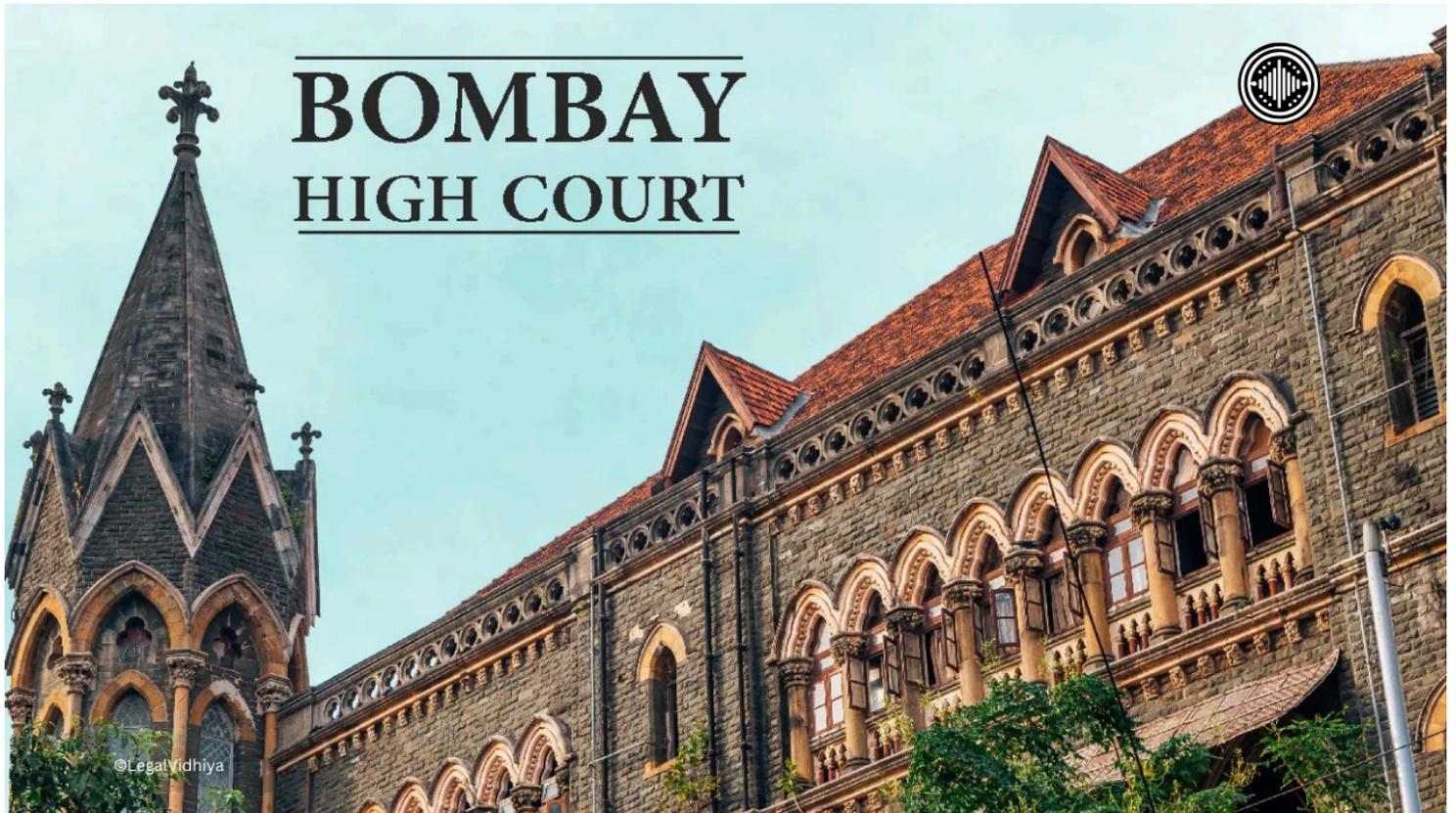
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Bombay High Court Upholds Child's Welfare Over Personal Law

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a legal judgment focused on the child's best interests. The Bombay High Court has awarded custody of a nine-year-old boy to his mother. Setting aside an earlier ruling that had granted custody to the the Court held that the welfare and emotional well-being of the child must take precedence when determining custody, even when religious customs suggest otherwise.

The case involved a dispute between two parents who were married in 2010 and later separated, with the mother taking the child to reside with her family. The father, seeking full custody, had earlier secured a favorable ruling from a District Court under Section 7 of the Guardians and Wards Act, 1890, which governs legal guardianship and custody matters in India. That decision had cited Muslim personal law, which traditionally considers fathers as the custodians of boys above the age of seven. However, the mother appealed to the High Court after being limited to visitation rights.

Justice Shailesh P. Brahme, presiding over the matter, reviewed both legal precedent and the practical aspects of the child's current living conditions. Despite the mother's failure to comply with certain interim custody orders and her limited knowledge of the child's school, the Court found that these factors were not enough to deny her. The Court noted the child's emotional attachment to the mother as a factor in its decision."

The Court exercised its *parens patriae* jurisdiction, allowing the judiciary to act as guardian in matters involving minors to ensure the child's psychological and emotional welfare was given primacy. It emphasized that, while religious personal law is respected, it cannot override a child's right to a stable and nurturing environment.

Consequently, the Bombay High Court overturned the District Court's verdict, granting the mother full custody while allowing the father visitation rights and occasional temporary custody. This case underscores the judiciary's role in upholding the best interests of children above all else, especially when personal laws are considered alongside statutory child welfare protections