Madras HC’s Decision on Patriarchal System

Why in news?

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Madras high court has ruled an outstanding judgement on natural guardian.

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What is Natural Guardian means according to judiciary?

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- In divorce situations, the parent with custody 0f the child is considered the natural guardian.
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- The opposite of a natural guardian is an appointed guardian or legal guardian, who will be authorized by a court or a will to care for and make decisions on behalf of a minor child.
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- The natural or legal guardian must authorise the financial and medical decisions of the minor children who do not have legal authority to make such decisions.
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- In India, on the grounds of Section 6 of the Hindu Minority and Guardianship Act, 1956, the “natural guardian” was the father.
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What is the case ruled by Madras HC?

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- Madras high court ruled an unusual paternity case where the petitioner was legally separated from her husband, had subsequently conceived a child through artificial insemination.
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- The efforts of the petitioner to get authorities to leave the father’s name blank in the child’s birth certificate were repeatedly rejected.
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- This was because of the bureaucratic cussedness and notions of hard-wired patriarchy in the officialdom.
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- Given the complexities of the case, name of a male friend of the petitioner had been erroneously entered as the child's father.
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- The officials' unwillingness to accommodate the petitioner's repeated requests for name deletion and leaving the 'father's name' column blank betrayed an excessive preoccupation with rules and regulations, unmindful of the human dimension.
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- In this case Madras HC directed authorities to leave the father's name blank by sending out signal against regressive notions centred on paternity.
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What is the significance of Madras HC's decision?

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- The directive of the Madras High Court in an unusual paternity case advances the progressive spirit of earlier rulings in related matters of gender justice.
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- The Madras High Court directive advances the spirit of other similar rulings including the famous 1999 case taken by the Supreme Court.
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- That case, in which author the petitioner challenged the RBI's rejection of an application for investments in her son's name (with her as the "natural guardian").
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- In this case the petitioner argued that the provision discriminated against women in the matter of guardianship rights over their own children.
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- In its ruling, the Court asserted the pre-eminence of the child's welfare in all considerations, and held that in this instance the mother was the "natural guardian".
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- Thus Madras High court's decision have steered bureaucratic rules away from the rigidities of a patriarchal system.
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Source: Business Line

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