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**(1960) 07 KL CK 0031**  
**In the High Court Of Kerala**  
**Case No : A.S. No. 302 of 1960**

Rev. Fr. Joseph Callian

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

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**Date of Decision :** 18-07-1960

**Acts Referred:**

Constitution of India, 1950 — Article 30(1)

**Citation :** AIR 1962 Ker 33

**Hon'ble Judges :** M.A. Ansari, C.J;M. Madhavan Nair, J

**Bench :** Division Bench

**Advocate :** K.S. Sebastian, for the Appellant; C.M. Kuruvilla, Govt. Pleader for Respondents 1 to 3 and V. Sankara Menon, for Respondent 4, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Madhavan Nair, J.—The appellant is the manager of St. Joseph's Upper Primary School, Mattathur, which is a school run with the aid of the State where children of all communities were admitted for education. His complaint is that the respondents Nos. 1 and 2 being the State of Kerala and its Director of Public Instruction, have issued orders "granting sanction and recognition to the 4th respondent to start a new Upper Primary School at Mattathur", and that those orders are unconstitutional and void. He filed Original Petition No. 654 of 1980 in this Court for a writ, order or direction to quash the said orders and to restrain respondents Nos. 1 to 3 -- the 3rd respondent being the District Educational Officer, Irinjalakuda -- from implementing those orders. But the learned Judge, before whom the petition came up for admission, dismissed the same. Hence this appeal.

2. It was strenuously contended that the appellant is a member of the Christian Community which forms the minority of his village; that as such, he has a fundamental right under Article 30(1) of the Constitution to establish and administer a school in the village; and that it should not be allowed to be defeated by the grant of a sanction to the 4th respondent, who is a member of

the Hindu community which constitutes the majority of the village, to start a rival school in the same village. These contentions seem to betray an incorrect understanding of the scope of Article 30(1) of the Constitution.

3. Article 30(1) of the Constitution, no doubt, guarantees a right to religious minorities "to establish and administer educational institutions of their choice". It is prescribed in Article 28(1) that religious instruction should not be given in educational institutions maintained wholly out of State funds. But the Constitution does not purport to prohibit any community from providing organised religious instruction as an adjunct of the school system in institutions maintained by that community out of their own funds. In such denominational schools, secular education according to the standards set by the State may be commingled with religious education according to the tenets of the particular faith of the community, subject only to the restriction enunciated in Article 28(3) of the Constitution.

The right, which may be characterised as part of the right to Freedom of Religion, is what is guaranteed in Article 30(1) of the Constitution so that it may not be subjected to the vicissitudes of political controversies or the whims of electoral majorities. But, it does not mean that the minority of a village has an exclusive right to conduct a undenominational school in the village, unmolested by any competition from the majority population of the village. The setting up of a rival school by a member of the "majority community" cannot therefore be characterised as a violation of any fundamental right of "the minority" under Article 30(1) or any other Article of the Constitution.

4. It follows that the orders granting sanction and recognition, to the 4th respondent to start a new school in the village cannot be impeached as unconstitutional. The order of the learned Judge refusing to admit the Original Petition is therefore right. The appeal fails and it is dismissed with costs including Advocate's fee Rs. 100/- to the Government Pleader and Rs. 50/- to the counsel for the 4th respondent.