
RETENTION OF EDUCATIONAL CERTIFICATES IN EMPLOYMENT RELATIONSHIPS: AN ANALYTICAL STUDY OF LABOUR RIGHTS AND CONTRACTUAL PRACTICES IN INDIA

Yashwont Kiran S, Assistant Professor of Law, St. Joseph's College of Law, Bengaluru¹

ABSTRACT

The retention of original educational certificates by employers has become a prevalent practice in Indian employment relationships, particularly in the private sector. While often justified as a means to ensure employee compliance with notice periods or organizational interests, this practice raises significant concerns regarding labour rights, contractual fairness, and constitutional protections. This paper undertakes an analytical study of certificate retention, examining its compatibility with statutory provisions, constitutional principles, and judicial interpretations. The study analyses whether such practices undermine the voluntariness of employment contracts and restrict labour mobility. It draws upon Articles 21 and 23 of the Constitution of India, highlighting how coercive employment mechanisms may conflict with the fundamental rights framework and constitute a form of indirect coercion akin to forced labour. The Indian Contract Act, 1872, provides the lens to evaluate consent obtained under unequal bargaining power, particularly in employment agreements conditioned on certificate retention. Judicial precedents reveal an increasing judicial intolerance towards practices that impose indirect coercion on employees, emphasizing the protection of dignity and autonomy at work. The paper also considers the broader implications of such practices for labour welfare, employment policy, organisational governance, and workforce development. It further identifies the civil and criminal implications of retaining personal educational documents and highlights regulatory gaps in Indian labour law. By situating certificate retention within a doctrinal and constitutional framework, the study provides critical insights for employers, policymakers, and courts regarding the legal risks, practical challenges, and ethical considerations associated with such practices, and underscores the urgent need for clearer statutory guidance and enforcement in employment regulation.

¹*Yashwont Kiran S, Assistant Professor of Law, St. Joseph's College of Law, Bengaluru*

Keywords: Certificate Retention, Labour Rights, Employment Contracts, Coercion, Indian Labour Law

INTRODUCTION

In contemporary Indian employment relationships, the retention of original educational certificates by employers has emerged as a common practice, particularly within the private sector. Employers often justify this practice as a mechanism to secure employee commitment, ensure compliance with notice periods, or safeguard organizational interests such as preventing sudden attrition. While these concerns may appear managerial in nature, the legal and ethical implications of certificate retention are significant. By controlling employees' personal documents, employers create a subtle mechanism of coercion that can restrict labour mobility, undermine employee autonomy, and raise serious questions regarding labour rights and contractual fairness.

This practice is often embedded in employment agreements or company policies that condition the return of certificates on the completion of notice periods or pending obligations. Employees, particularly early-career professionals or those with limited bargaining power, may feel compelled to comply, fearing professional setbacks. Legally, such arrangements raise critical questions about the voluntariness of consent in employment contracts, the legitimacy of conditional employment practices, and potential infringement on fundamental rights.

Despite the existence of statutory frameworks, including the Indian Contract Act, 1872, and constitutional protections, there is limited clarity regarding the legality of certificate retention. It exists in a regulatory grey zone: no explicit statutory prohibition exists, yet the practice may conflict with fundamental principles such as the right to dignity and autonomy under Articles 21 and 23 of the Constitution of India. Judicial precedents have increasingly recognized that practices imposing indirect coercion on employees must be evaluated in light of these fundamental rights, though comprehensive jurisprudence on certificate retention remains sparse.

Certificate retention also has practical and socio-economic implications. Employees deprived of original documents may face difficulties in pursuing higher education, securing new employment, or meeting professional licensing requirements. The practice can reinforce hierarchical workplace structures and inequality, emphasizing organizational control

over employee empowerment. From an ethical perspective, it raises questions about fairness, transparency, and the duty of employers to respect personal autonomy.

Academically, the issue intersects contract law, labour law, and constitutional law. The Indian Contract Act allows for the examination of consent under conditions of unequal bargaining power, while constitutional principles safeguard employees from coercive practices. Regulatory gaps, however, result in inconsistent practices across sectors, highlighting the need for doctrinal analysis to clarify legal boundaries and provide guidance to stakeholders.

Given its prevalence and complex legal implications, certificate retention warrants careful scholarly attention. This paper undertakes an analytical study of the practice, examining statutory provisions, judicial interpretations, and constitutional principles. It aims to evaluate the legality of certificate retention, assess its impact on labour mobility and employee rights, and identify gaps in regulation and enforcement. By situating the practice within a doctrinal framework, the study provides insights for employers, policymakers, and courts, emphasizing the importance of fair, transparent, and legally compliant employment practices that safeguard employee rights and dignity.

STATEMENT OF THE RESEARCH PROBLEM

The retention of original educational certificates by employers in India has become a widespread practice, particularly in the private sector. Employers often justify this practice as a mechanism to ensure employee compliance with notice periods, safeguard organizational interests, or prevent sudden attrition. While such justifications may appear reasonable from a managerial perspective, the practice raises significant legal and ethical concerns. By withholding personal documents, employers create a mechanism of indirect coercion, which can restrict labour mobility, impinge on employees' autonomy, and potentially contravene principles of fairness and contractual voluntariness. Despite its prevalence, there is limited clarity in Indian law regarding the permissibility and boundaries of this practice.

The practice exists in a regulatory grey area. There is no explicit statutory prohibition addressing the retention of educational certificates in employment contracts. At the same time, constitutional provisions, including Articles 21 and 23, protect the right to dignity, personal liberty, and prohibit forced labour, forming a potential legal basis to challenge coercive employment practices. The Indian Contract Act, 1872, provides additional scrutiny regarding

consent obtained under unequal bargaining power, raising further legal questions about the enforceability of employment agreements conditioned on certificate retention. Judicial intervention in this area remains limited and inconsistent, with most cases addressing coercion in extreme circumstances rather than the subtle and widespread practice of withholding certificates.

This research addresses the critical question of whether the retention of educational certificates by employers aligns with constitutional protections, contractual principles, and labour rights in India and by analysing statutory provisions, judicial precedents, and ethical considerations, the study seeks to delineate the legal boundaries of certificate retention, evaluate its impact on employee autonomy and mobility, and provide guidance for fair and compliant employment practices.

OBJECTIVES OF THE RESEARCH

1. To critically analyse the practice of retaining original educational certificates by employers in India and its legal, ethical, and practical implications.
2. To examine the compatibility of certificate retention with constitutional protections under Articles 21 and 23 and relevant principles of labour law.
3. To evaluate the enforceability of employment contracts that condition certificate return, with reference to the Indian Contract Act, 1872, and doctrines of consent and coercion.
4. To study judicial precedents addressing coercive employment practices and their relevance to certificate retention in private sector employment.
5. To assess the impact of certificate retention on employee autonomy, labour mobility, and professional opportunities, particularly for early-career professionals.
6. To identify gaps in statutory regulation and propose recommendations for fair, transparent, and legally compliant employment practices regarding educational certificate retention.

REVIEW OF LITERATURE

1. *F.No. 14-12/2019(CPP-II), UGC Public Notice Dated 11th August 2020 on Non-Retention of Certificates of Teachers by Higher Educational Institutions*

The University Grants Commission, through its Public Notice titled “*Non-Retention of Certificates of Teachers by Higher Educational Institutions – Regarding*” dated 11 August 2020 and signed by Prof. Rajnish Jain, expressly prohibited the retention of original academic certificates by employing institutions. The notice clarified that retention beyond verification lacks legitimate justification and may operate as a coercive mechanism affecting professional mobility and career progression. It directed institutions to return original certificates immediately after verification and refrain from imposing employment-related conditions, reflecting a regulatory stance against practices that undermine autonomy and fairness in employment relationships.

2. *F. No.1-101/DPG/AICTE/Regulation/2019, AICTE Regulation dated 29th March 2019, Withholding of Original Certificates by Educational Institutions*

This regulation deals with the persistent practice of technical institutions withholding original educational qualification certificates of faculty, non-teaching staff, and students. Regulatory literature emerging from AICTE documents the prevalence of such practices, particularly at the stage of resignation, employment discontinuance, or admission cancellation. These sources critically examine certificate retention as a mechanism of institutional control, often accompanied by financial or procedural coercion. Collectively, the regulatory discourse frames this practice as incompatible with prescribed norms of institutional governance and ethical administration.

3. *Mukul Joshi, Holding Original Documents of a Candidate for Job is Legal or Illegal?, LinkedIn, 25th September 2021.*

Joshi (2021), writing from an HR practitioner’s perspective, argues that the retention of original certificates by employers is illegal, arbitrary, and violative of Articles 19(1)(g) and Section 23 of the Indian Contract Act. While not an academic or judicial authority, the article reflects prevailing industry-level concerns and professional understanding regarding coercive employment practices.

RESEARCH QUESTIONS

1. Whether the retention of original educational certificates by employers amounts to an unfair labour practice or a form of coercion under Indian labour jurisprudence?

2. To what extent contractual clauses permitting employers to retain original educational certificates are void for being unconscionable or opposed to public policy under Section 23 of the Indian Contract Act, 1872?
3. How far the practice of retaining original educational certificates infringes employees' fundamental right to practise any profession or occupation under Article 19(1)(g) of the Constitution of India?
4. What is the legal position of Indian courts and regulatory bodies regarding the permissibility of retaining original educational certificates during employment, and whether judicial responses have been consistent across sectors?
5. Whether existing labour and data protection laws in India provide adequate safeguards against the retention of original educational certificates by employers, and what legal reforms are necessary to address regulatory gaps?

HYPOTHESIS

The retention of original educational certificates by employers in India constitutes a coercive and unfair employment practice that restricts employees' labour rights. Such retention, even when supported by contractual clauses, is contrary to public policy and void under Section 23 of the Indian Contract Act, 1872. The practice indirectly infringes the fundamental right to practise any profession or occupation under Article 19(1)(g) of the Constitution of India. Existing labour and regulatory frameworks are inadequate to effectively prevent this practice, necessitating clearer statutory intervention.

RESEARCH METHODOLOGY

The study adopts a doctrinal and analytical research methodology to examine the legality of retaining original educational certificates in employment relationships in India. Primary sources include constitutional provisions, labour statutes, contract law principles, judicial pronouncements, and regulatory guidelines. Secondary sources such as law journal articles, books, policy documents, and professional commentaries are analysed to understand doctrinal interpretations and prevailing practices. The research employs a qualitative analysis to assess the impact of such practices on labour rights and contractual freedom. A critical evaluation is undertaken to identify legal gaps and propose reforms aligned with constitutional

and labour law principles.

LEGAL, ETHICAL, AND PRACTICAL CONCERNS OF RETAINING ORIGINAL EDUCATIONAL CERTIFICATES BY EMPLOYERS IN INDIA

The practice of retaining original educational certificates by employers in India, though prevalent in certain sectors, raises serious legal, ethical, and practical concerns. Legally, such retention operates in a grey area. While no statute expressly authorises employers to retain original certificates, the practice may conflict with established principles under the Indian Contract Act, 1872. Employment contracts are required to be founded on free consent, and where employees—particularly fresh graduates or economically vulnerable workers—are compelled to submit original documents as a condition of employment, the voluntariness of consent becomes questionable. Contractual clauses permitting such retention may be rendered void under Section 23 of the Act for being opposed to public policy, as they indirectly restrain occupational mobility and freedom of employment.

From a constitutional perspective, although fundamental rights are primarily enforceable against the State, constitutional values play a significant role in evaluating private employment practices. The retention of certificates can undermine the right to dignity and livelihood under Article 21 by restricting an employee's ability to resign, seek alternative employment, or pursue higher education. In extreme cases, such practices may approximate conditions of indirect coercion, drawing parallels with prohibited forms of forced labour under Article 23, particularly when employees are left with no real exit option.

Although the judgment in *C. Shanthi v. Vel Tech High Tech Dr Rangarajan Dr Sakunthala Engineering College*² is unreported, it reflects the Madras High Court's consistent judicial approach that the retention of original educational certificates by private educational institutions is illegal and improper, even when such retention is sought to be justified on the basis of contractual obligations. In this case, the Writ Petition was filed by C. Shanthi against Vel Tech High Tech Dr Rangarajan Dr Sakunthala Engineering College, Chennai, challenging the institution's refusal to return her original educational certificates. The petitioner asserted that despite her termination and being compelled to submit her resignation, the college

²*Retaining Original Certificates Is Illegal and Improper: Madras High Court, LiveLaw* (22 June 2014), <https://www.livelaw.in/retaining-original-certificates-illegal-improper-madras-high-court> (accessed 20 January 2026).

continued to withhold her certificates on the ground that she had failed to serve the stipulated notice period and had not paid the alleged damages. The High Court directed the immediate return of the certificates, while expressly preserving the institution's right to pursue appropriate civil remedies for recovery of damages, if so advised. At the time of her appointment as an Assistant Professor, the petitioner had submitted her original certificates to the institution as a condition of employment.

Ethically, the practice reflects a power imbalance inherent in employer–employee relationships. Retaining personal educational documents treats employees as economic resources rather than autonomous individuals, eroding trust and fairness in the workplace. It prioritises organisational control over employee dignity and professional growth, raising serious concerns about responsible and ethical employment governance.

Practically, the consequences for employees are severe. Without access to original certificates, employees may face barriers in job mobility, professional licensing, or academic advancement. Regulatory interventions by bodies such as the UGC and AICTE have recognised these harms within educational institutions, yet similar protections remain absent in the broader private sector. This highlights the urgent need for clearer statutory regulation to prevent coercive practices and ensure fair and transparent employment relationships in India.

CONSTITUTIONAL COMPATIBILITY OF CERTIFICATE RETENTION

The practice of retaining original educational certificates by employers in India must be examined through the lens of constitutional protections, particularly Articles 21 and 23 of the Constitution of India. Article 21 guarantees the right to life and personal liberty, which has been expansively interpreted by the Supreme Court to encompass the right to livelihood, dignity, and occupational freedom. When employers condition employment on submission of original certificates, they indirectly restrict an employee's ability to resign, change jobs, or pursue further education, thereby impacting the employee's dignity and professional autonomy. Such restrictions, though imposed by private entities, clash with the broader constitutional ethos that safeguards individual freedom and human dignity in the workplace.

PROHIBITION OF FORCED LABOUR UNDER ARTICLE 23

Article 23 explicitly prohibits forced labour and human trafficking. While the retention

of certificates does not amount to direct slavery or bonded labour, it may, in effect, create conditions of indirect coercion. Employees—particularly fresh graduates or economically vulnerable workers—may feel compelled to remain in employment or comply with unfavourable terms due to the fear of losing access to their original documents. Such coercive conditions may approximate a form of forced labour, violating the constitutional mandate against exploitation and compelling statutory scrutiny.

In contemporary India, it is increasingly common for law firms, educational institutions, and corporate entities to demand the submission of employees' original educational certificates as security documents at the time of appointment. These certificates are often retained by employers and are withheld when an employee seeks to resign, particularly on the ground that the employee has allegedly failed to serve the stipulated notice period. Such practices raise serious legal, ethical, and constitutional concerns, especially in relation to employee autonomy, freedom of occupation, and the imbalance of power in employment relationships. Such practices may be viewed as **contemporary or indirect forms of labour coercion**, bearing resemblance to modern manifestations of servitude, where control is exercised not through physical restraint but through economic and documentary dependence.

The Supreme Court of India in the *People's Union for Democratic Rights and Others v. Union of India & Ors*³ held that Article 23 is expressly intended to safeguard individuals not merely from State action but also from exploitation by private individuals. Article 23 is not confined to actions by the State alone; it extends its prohibition to all persons by outlawing trafficking in human beings, beggar, and other comparable forms of forced labour, irrespective of who practises them.

LABOUR LAW PRINCIPLES AND EMPLOYEE RIGHTS

Under labour law, employment contracts must be founded on free consent, as enshrined in the Indian Contract Act, 1872. Any contractual clause that undermines an employee's freedom to leave a job or pursue alternate opportunities can be deemed void under Section 23 for being opposed to public policy. Moreover, labour law emphasises fairness, equity, and protection against undue employer control. Regulatory bodies like the University Grants Commission (UGC) and the All-India Council for Technical Education (AICTE) have

³1982 AIR 1473

prohibited certificate retention in educational employment, recognising its adverse impact on mobility and professional development. Extending such principles to private employment would reinforce constitutional protections and align employment practices with the values of dignity, autonomy, and voluntary consent.

ENFORCEABILITY OF EMPLOYMENT CONTRACTS CONDITIONING CERTIFICATE RETENTION

Employment contracts in India are governed primarily by the Indian Contract Act, 1872, which requires that all contracts be entered into with free consent and for lawful consideration. Section 10 of the Act stipulates that agreements are valid only when the parties voluntarily agree to their terms without any undue influence, coercion, or misrepresentation. When employers condition employment on the submission of original educational certificates, the voluntariness of consent may be questionable, particularly for fresh graduates or economically vulnerable workers who may feel compelled to comply to secure employment.

The doctrines of consent and coercion are central to evaluating enforceability. Section 15 of the Contract Act defines coercion as committing or threatening to commit any act forbidden by law or unlawfully detaining property to obtain consent. Conditioning employment on certificate retention may amount to indirect coercion if employees have no realistic alternative but to submit their documents. In such cases, any contractual clause enforcing retention could be challenged as obtained under duress and therefore voidable at the employee's option.

Furthermore, Section 23 of the Contract Act renders agreements void if they are opposed to public policy. Clauses that impede occupational mobility or restrict the right to resign contravene public policy by prioritising employer control over employee freedom and dignity. Judicial precedents in India have consistently upheld that contracts which indirectly constrain an individual's fundamental rights or liberty may be unenforceable.

In practice, this creates a strong legal basis for challenging certificate retention clauses. Employers cannot rely solely on contractual terms to justify withholding documents if such clauses undermine free consent, are coercive in nature, or violate established public policy principles. Aligning employment practices with these doctrines ensures fairness, ethical governance, and respect for employee autonomy.

IMPACT OF CERTIFICATE RETENTION ON EMPLOYEE AUTONOMY AND CAREER PROGRESSION

The practice of retaining original educational certificates by employers significantly affects employee autonomy, labour mobility, and professional opportunities, particularly for early-career professionals. Autonomy in employment entails the ability of individuals to make informed choices about their careers, resign voluntarily, and pursue alternative opportunities without undue restriction. When original certificates are withheld, employees are placed in a position of dependency, often compelled to remain in employment or comply with unfavourable terms due to the fear of losing access to critical personal documents. This power imbalance undermines the foundational principle of free consent in labour relations.

Labour mobility is another area severely impacted. Certificates serve as essential proof of qualifications required for job applications, higher education, or professional licensing. Without access to these documents, employees may be unable to transition to better roles, explore interdisciplinary opportunities, or relocate geographically for work. Early-career professionals, who rely heavily on building a portfolio of diverse experiences, are particularly vulnerable, as prolonged retention can stifle career growth and delay professional advancement. Joshi (2021), writing from an HR practitioner's perspective, argues that the retention of original certificates by employers is illegal, arbitrary, and violative of Articles 19(1)(g) and Section 23 of the Indian Contract Act.⁴

Professional opportunities are also curtailed. Many employers, educational institutions, and regulatory bodies require submission of original certificates for verification purposes. The inability to provide these documents can result in missed job offers, denial of higher studies, or exclusion from certification and licensing processes. In sectors where rapid skill development and credentialing are critical, such restrictions can have long-term detrimental effects on employability and career trajectory.

GAPS IN REGULATION AND RECOMMENDATIONS FOR ETHICAL CERTIFICATE MANAGEMENT

⁴Mukul Joshi, *Holding Original Documents of a Candidate for Job is Legal or Illegal?*, LinkedIn (25 Sept. 2021), <https://www.linkedin.com/pulse/holding-original-documents-candidate-job-legal-illegal-mukul-joshi> (Assessed on 20th January, 2026)

Despite the prevalence of certificate retention practices in India, statutory regulation remains fragmented and inadequate, creating significant gaps in legal protection for employees. While regulatory bodies such as the University Grants Commission (UGC)⁵ and the All-India Council for Technical Education (AICTE)⁶ have explicitly prohibited the retention of certificates by educational institutions, no comprehensive law governs the private sector. Consequently, employees in corporate, industrial, and service sectors remain vulnerable to coercive employment practices, with little recourse under existing labour statutes. Current frameworks under the Indian Contract Act, 1872, and labour law doctrines primarily address consent and public policy, but these are often insufficient to prevent routine retention or to provide immediate remedies.

To address these gaps, a multi-pronged approach is necessary. First, statutory clarification is required to explicitly prohibit the retention of original educational certificates as a condition of employment, extending protections beyond educational institutions to all sectors. Second, employers should be encouraged to adopt transparent policies, including providing certified copies of documents for verification purposes, maintaining secure digital repositories, or allowing time-bound retention agreements that ensure timely return of originals. Third, labour law enforcement mechanisms, such as labour commissioners and courts, should be empowered to adjudicate certificate retention disputes swiftly, offering employees remedies including return of documents, compensation for delay, and protection against retaliatory actions.

Additionally, awareness campaigns can educate employees regarding their rights and employers regarding ethical and legally compliant human resource practices. Incorporating these measures would promote fairness, transparency, and accountability in employment relationships, safeguard employee autonomy and mobility, and align private sector practices with constitutional and statutory principles. Ultimately, clear regulatory guidance combined with robust enforcement would eliminate coercive certificate retention practices and foster a culture of ethical and equitable employment governance in India.

⁵UGC, Public Notice No. F. No. 14-12/2019 (CPP-II), *Non-Retention of Certificates of Teachers by Higher Educational Institutions – Regarding* (11 Aug. 2020).

⁶All India Council for Technical Education, *F. No. 1-101/DPG/AICTE/Regulation/2019, Regulations on Withholding of Original Certificates by Educational Institutions* (29 March 2019).

CERTIFICATE RETENTION AND UNFAIR LABOUR PRACTICES

Retention of original educational certificates by employers can be viewed as both an unfair labour practice and a form of coercion under Indian labour jurisprudence. It restricts an employee's freedom to resign or seek alternative employment, undermining the principle of voluntary consent required under the Indian Contract Act, 1872. By conditioning employment on certificate submission, employers create a power imbalance, pressuring employees into continued service, which may amount to indirect coercion under Section 15 of the Contract Act. Labour law recognises such restrictions as opposed to public policy, making related contractual clauses potentially void under Section 23. Regulatory bodies like UGC and AICTE prohibit certificate retention in educational institutions, reflecting the ethical and legal concerns. Courts have consistently emphasised the protection of employee autonomy, dignity, and occupational freedom. Therefore, certificate retention can be challenged as both unfair and coercive, particularly for economically vulnerable or early-career professionals.

No specific judicial or statutory authority under the Industrial Disputes Act (ID Act), 1947 has expressly held that the retention of original educational certificates by employers *per se* amounts to an unfair labour practice under the Act's defined schedules. The ID Act (and its Schedules on unfair labour practices) focuses on employer acts that directly affect terms of employment, collective rights, union activities, unfair dismissal, discrimination, etc., rather than document-retention practices.

However, in legal practice and commentary, withholding original certificates is often treated as an *unfair labour practice* under Section 2(ra)⁷ read with the Schedule V of the Industrial Disputes Act, 1947. Several legal advisories and practitioner sources state that an employer's failure to return original educational documents (especially when used to coerce continued service or restrict employee mobility) *can be construed* as an unfair labour practice under the Act, particularly where it disadvantages a "workman" as defined under Section 2(s).

It's important to note that the ID Act applies only if the employee qualifies as a "workman" under Section 2(s), which depends on nature of duties and wages. Retention of certificates has not been specifically adjudicated by Indian courts under the ID Act's unfair labour practice provisions. Thus, while retention is widely regarded in legal advice circles as

⁷Industrial Disputes Act, 1947 (Act No. 14 of 1947).

constituting unfair labour practice under the ID Act, this classification is based on interpretation and practice rather than binding judicial pronouncement. In actual disputes, aggrieved employees currently rely more on contract law principles and human rights arguments alongside labour complaints rather than on a settled ID Act precedent.

VOIDABILITY OF CERTIFICATE RETENTION CLAUSES UNDER SECTION 23, INDIAN CONTRACT ACT, 1872

Section 23 of the Indian Contract Act, 1872⁸, renders agreements void if they are opposed to public policy or unlawful in object or consideration. Contractual clauses permitting employers to retain original educational certificates can fall within this scope when they impose undue restrictions on an employee's freedom to resign, seek alternative employment, or pursue higher education. Such clauses may be considered *unconscionable*, particularly when imposed on economically vulnerable workers or fresh graduates who have little bargaining power, effectively compelling them to remain in employment against their will.

The doctrine of public policy emphasises protection of individual autonomy, dignity, and occupational mobility. Courts have consistently held that agreements that indirectly constrain these fundamental rights—by restricting the employee's capacity to change jobs or advance professionally—contravene public policy principles. While no binding judicial pronouncement directly addresses certificate retention, legal commentary supports the view that clauses conditioning employment on submission of originals are *prima facie* void under Section 23 if they result in indirect coercion or exploitation.

Practically, this means employees can challenge retention clauses in civil or labour disputes, seeking return of documents and asserting that such contractual terms are unenforceable. Aligning employment practices with Section 23 ensures fairness, transparency, and respect for employee autonomy in the workplace.

VIOLATION OF THE RIGHT TO PRACTICE ANY PROFESSION UNDER ARTICLE 19(1)(g)

Article 19(1)(g) of the Constitution of India guarantees all citizens the right to practice any profession, carry on any occupation, trade, or business. The practice of retaining original

⁸Indian Contract Act, 1872 (Act No. 9 of 1872).

educational certificates by employers can directly or indirectly infringe this right, particularly for early-career professionals. Original certificates serve as proof of qualifications required for employment, professional licensing, and higher education. When employers withhold these documents, employees are effectively restricted from changing jobs, pursuing alternative career opportunities, or enrolling in further studies, limiting their freedom to practise a profession. **Although fundamental rights primarily bind the State**, courts have repeatedly recognized that private practices violating constitutional values, such as dignity, liberty, and freedom of trade, may be scrutinized under the broader constitutional ethos. Retention of certificates, therefore, represents a structural barrier to occupational mobility and professional growth, disproportionately affecting economically vulnerable employees.

Article 19(1)(g) is directly enforceable only against the State; however, its underlying constitutional values indirectly shape judicial scrutiny of private employment practices through contract law, labour regulation, and public policy. *Though the factual matrix in Kesavan v. Director of Medical Education, Kilpauk, Chennai & Another*⁹ concerned a student–institution relationship, the Madras High Court laid down an important normative principle that **educational certificates are the personal property of the individual and cannot be retained by an institution, even on the basis of a bond**. This reasoning assumes significance in employment relationships as well, particularly where employers retain original certificates to compel continued service, thereby impairing the individual’s freedom of occupation under **Article 19(1)(g)** and personal liberty under **Article 21**. Such practices effectively create a coercive environment that undermines free consent and perpetuates unequal bargaining power between the institution and the individual. Consequently, the judicial reasoning in *Kesavan* provides a persuasive constitutional basis for challenging the retention of educational certificates by employers as an unreasonable and unconstitutional restriction on professional mobility.

LEGAL POSITION OF INDIAN COURTS AND REGULATORY BODIES

Indian courts and regulatory bodies have consistently expressed concern over the retention of original educational certificates, particularly in the context of educational institutions. The University Grants Commission (UGC) and All India Council for Technical Education (AICTE) have explicitly prohibited this practice, mandating that certificates must be

⁹W.P. No. 3439 of 2011 M.P. No. 1 of 2011

returned to employees immediately after verification. Judicial interventions, though limited, have emphasized the protection of employee autonomy, dignity, and mobility.

However, courts have not yet uniformly adjudicated certificate retention in the private sector, leading to inconsistent jurisprudence. In some cases, employment disputes involving coercion or undue restriction have been examined under the Indian Contract Act, 1872, and labour law principles, often invoking Sections 10, 15, and 23 regarding free consent, coercion, and public policy. While educational sector regulations are clear, private corporate and industrial sectors operate in a grey area, resulting in varied judicial outcomes. This inconsistency underscores the need for sector-neutral statutory clarity and uniform judicial interpretation, ensuring that employees' fundamental rights and contractual protections are upheld across all employment contexts.

The case of *A. John Paul v. State*¹⁰, decided by the Madras High Court on 10 July 2012, deals with the issue of employers retaining the original educational and professional certificates of employees after they resign. In this case, the petitioners were teachers who had worked at St. Johns Senior Secondary School and Junior College (CBSE). After submitting their resignations, the school management refused to return their original certificates, which affected their ability to seek other employment.

The main legal question before the Court was whether withholding these certificates amounted to a criminal offence under Section 406 of the Indian Penal Code, which relates to criminal breach of trust. The petitioners approached the police seeking action against the management for failing to return their documents and later invoked the inherent powers of the High Court under Section 482 of the Criminal Procedure Code.

The school management argued that, under the employment agreement, the teachers were required to pay three months' salary if they resigned in the middle of the academic year, and that the certificates would be returned only after such payment. The High Court rejected this defence and held that retaining the certificates was illegal and constituted criminal breach of trust. The Court clarified that the matter was not merely a civil dispute regarding unpaid salary but involved a criminal act, and it directed the police to register a case against the school

¹⁰CrI. O.P No. 9920 of 2012 and M.P No. 1 of 2012

management.

LEGAL REMEDIES FOR EMPLOYEES AGAINST UNLAWFUL RETENTION OF EDUCATIONAL CERTIFICATES

In India, employees across professions whose original educational certificates are unlawfully retained by employers have access to multiple legal remedies under civil, criminal, constitutional, labour, and regulatory frameworks. **Engineers and administrative staff** employed in the corporate or private sector may institute a civil suit for mandatory injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure for recovery of their certificates, initiate criminal proceedings under Section 316 of the Bharatiya Nyaya Sanhita, 2023 (BNS) where retention is coercive or conditional, and, where they fall within the definition of “workman” under the Industrial Disputes Act, 1947, approach the Labour Commissioner for conciliation on the ground of unfair labour practice; additionally, a writ petition under Article 226 of the Constitution may be invoked if the retention substantially impairs the freedom of occupation under Article 19(1)(g) or personal liberty under Article 21.

Doctors working in private or government hospitals may similarly seek civil injunctions, lodge criminal complaints under Section 316 of the Bharatiya Nyaya Sanhita, 2023 (BNS), approach the National Medical Commission where certificate retention affects licensing or registration, and invoke the writ jurisdiction of High Courts; hospital-employed doctors who qualify as “workmen” may also seek relief through the Labour Commissioner.

Professors and school teachers whose educational certificates are unlawfully retained by employers may seek civil and criminal remedies, including mandatory injunctions and proceedings for criminal breach of trust, and may also invoke the writ jurisdiction of High Courts under Article 226 against government, aided, or regulated educational institutions. However, they generally cannot seek relief under the Industrial Disputes Act, 1947, including before the Labour Commissioner, as they are not classified as “workmen.” In addition, they may approach relevant regulatory authorities such as the UGC, AICTE, CBSE, ICSE, or State Education Departments to address institutional violations.

In MC Gan's Ooty School of Architecture, Represented By Its Chair Person E.

*Sumathy, Nilgiris & Another V. The Registrar, Anna University, Chennai & Another*¹¹, the Madras High Court ruled that the order cannot be construed as granting permission to institutions to retain the original certificates of teaching or non-teaching staff who intend to resign mid-academic year. The Court further emphasised that, under no circumstances, should institutions withhold the original certificates of faculty members or non-teaching staff who submit their resignation to the institution.

Bank staffs may seek injunctions, initiate criminal action, approach the Labour Commissioner in cases of unfair labour practices, utilise internal grievance mechanisms, or complain to the Reserve Bank of India, along with invoking writ jurisdiction where constitutional rights are implicated. Managers and higher-level corporate employees, though often excluded from the statutory definition of “workman,” may nonetheless seek civil and criminal remedies and constitutional relief, while labour law remedies before the Labour Commissioner remain available wherever the statutory threshold is satisfied.

Across sectors, judicial pronouncements consistently recognise that original educational certificates constitute the personal property of employees, and their coercive retention by employers is unlawful, thereby justifying intervention through civil courts, criminal law, labour authorities, constitutional courts, and regulatory bodies.

ADEQUACY OF LABOUR AND DATA PROTECTION LAWS AND NEED FOR LEGAL REFORMS

Existing labour laws and data protection regulations in India offer limited safeguards against certificate retention. Labour laws, such as the Industrial Disputes Act, 1947, focus on unfair labour practices and contract enforcement but do not explicitly address document retention. Similarly, data protection frameworks, including the Digital Personal Data Protection Act, 2023¹², primarily regulate processing and storage of digital personal data and do not encompass physical educational certificates. As a result, employees in private sectors are often left without effective legal recourse.

Legal reforms are necessary to close these gaps. First, statutory provisions should explicitly prohibit retention of original certificates across sectors, ensuring timely return or use

¹¹Writ Petition Nos. 33905 of 2018 & 3541 of 2019 & W.M.P. Nos. 39363, 39364 & 39366 of 2018 & 3858 of 2019

¹²Digital Personal Data Protection Act, No. 22 of 2023, India.

of verified copies. Second, enforcement mechanisms under labour authorities and courts should be strengthened to provide prompt remedies, including return of certificates and compensation for delays or coercion. Third, awareness campaigns can educate both employers and employees about ethical and legally compliant document management. Integrating these measures would enhance workplace fairness, protect employee autonomy, and align employment practices with constitutional principles and international labour standards.

CONCLUSION

The practice of retaining original educational certificates by employers remains coercive and deeply problematic, undermining employee autonomy, restricting professional growth, and compromising workplace dignity across India's private sector. Judicial pronouncements and regulatory directives have consistently condemned such practices as both unethical and unlawful, highlighting the legal risks for employers while leaving employees exposed in a regulatory vacuum. This underscores the urgent need for comprehensive reform, including legislation that explicitly prohibits the retention of original certificates beyond the purpose of verification, alongside robust enforcement mechanisms and a shift toward ethical employment practices. Such measures are essential to safeguard employee rights, facilitate fair labour mobility, foster trust-based workplace relationships, and ensure equitable opportunities that respect individual freedom and career progression.

REFERENCES

Case Laws

- C. Shanthi v. Vel Tech High Tech Dr Rangarajan Dr Sakunthala Engineering College (LiveLaw)
- People's Union for Democratic Rights and Others v. Union of India & Ors (1982 AIR 1473)
- Kesavan v. Director of Medical Education, Kilpauk, Chennai & Another (W.P. No. 3439 of 2011 M.P. No. 1 of 2011)
- A. John Paul v. State (Crl. O.P No. 9920 of 2012 and M.P No. 1 of 2012)
- MC Gan's Ooty School of Architecture, Represented By Its Chair Person E. Sumathy, Nilgiris & Another V. The Registrar, Anna University, Chennai & Another (Writ Petition Nos. 33905 of 2018 & 3541 of 2019 & W.M.P. Nos. 39363, 39364 & 39366 of 2018 & 3858 of 2019)

Blogs

- Mukul Joshi, *Holding Original Documents of a Candidate for Job is Legal or Illegal?*, LinkedIn (25 Sept. 2021).

Regulatory Public Notices

- UGC, Public Notice No. F. No. 14-12/2019 (CPP-II), *Non-Retention of Certificates of Teachers by Higher Educational Institutions – Regarding* (11 Aug. 2020).
- All India Council for Technical Education, *F. No. 1-101/DPG/AICTE/Regulation/2019, Regulations on Withholding of Original Certificates by Educational Institutions* (29 March 2019).

Legislations

- Industrial Disputes Act, 1947 (Act No. 14 of 1947).
- Indian Contract Act, 1872 (Act No. 9 of 1872).
- Digital Personal Data Protection Act, No. 22 of 2023, India.