
(1979) 09 GUJ CK 0015
In the Gujarat High Court

Jayantilal Khetsi Gada

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 14-09-1979

Acts Referred:

Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 —
Section 11, 3, 3

Citation : (1979) 2 GLR 243

Hon'ble Judges : S.H. Sheth, Acting C.J.; S.B. Majmudar, J

Bench : Division Bench

Judgement

S.B. Majmudar, J.—These three special criminal applications challenge orders of detention passed against the concerned petitioner detenu by the first respondent in each of the petitions, in exercise of powers u/s 3 of The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (hereinafter called the Cofeposa Act). As all the three petitions have resulted out of detention orders based on one and the same incident and as all of them involve similar facts, all the three petitions have been heard together by consent of learned Advocates of both sides and are being disposed of by this common judgment. Respondent No. 1 relies on an incident dated 2nd August 1978 which is said to have occurred near Beyt Island within the jurisdiction of Okha Customs House. It is the case of the detaining authority that a small fire on a vessel near the cremation ground in Beyt Island was detected by preventive officers of Okha Customs House in the early hours of 2nd August 1978. By the time these officers reached the place, they noticed that the vessel had been completely burnt except the bottom portion submerged in water and its engine. The said officers rummaged the said burnt vessel but could not see any identifying particulars such as the name and registration number. The engine was ascertained to be an eight cylinder Kelvin engine. The customs officers in spite of their best efforts could not locate the persons concerned with this vessel nor any one, on his own, came forward to claim the said vessel. The customs officers then seized the said burnt vessel along with its engine on 2nd August 1978 in the reasonable belief

that it had been used in the carriage of smuggled goods.

2. It is further the case of the detaining authority that thereafter the customs officers intensified their attempt to collect as much intelligence as possible in respect of this burnt vessel, that on 4-8-78 the customs officers received intelligence report which revealed that contraband wrist watches had been brought by the said vessel on 1st and 2nd August 1978 and one Daud Talu Betara of Okha Beyt was concerned with the bringing of the said wrist watches. The intelligence also revealed that said Daud Talu Betara was reported to be Tindel of the said burnt vessel and that he was wanted in an earlier customs case. It was also gathered that the said Daud Talu Betara was harboured by one Osman Jusab Bholim of Okha Beyt. It is further the case of the detaining authority that the customs officers after making further search found out various wrist watches which were smuggled wrist watches and of foreign origin; from different places in the surrounding area, that on account of the aforesaid search by the customs authorities, wrist watches, watch straps and spare parts of foreign origin totalling to Rs. 33,70,819/- and one Soni Radio Cassette Taperecorder also of foreign origin and valued at Rs. 1000/- were seized under a regular Panchnama. On further investigation it was found by the customs authorities that Daud Talu Betara was the Tindel of the seized vessel, that the name of the vessel was Al-Hamidi, that it belonged to One Adu Dada residing in Dubai, that thirty packets of wrist watches were loaded in the said vessel at Khorfkhan for being smuggled into India, that Alle Punja Barot alias Bawa Hasan Malbari, Abdul Latif Fakirmohmed of Beyt and Ismail Jumma Tangan of Beyt were the crew members on board the said vessel, that the aforesaid goods were to delivered to one Suleman Nira alias Suleman Soda of Okha Beyt near a small island off the Goa Coast, that after the vessel left Khorfkhan for India, after a voyage of about two days, the aforesaid Hasan fell overboard in a mishap at sea, that thereafter Abdul Latif proposed to take the vessel to Karachi and off-loaded the goods there, that accordingly, when the launch reached off the coast of Karachi, Latif disembarked into a raft made out of drums and went to the shore with twenty samples of wrist watches, saying that he would return later with a boat for landing the goods, that Daud Talu Betara and Alia Punja waited for Abdul Latif at that spot for four days but he did not return, that they decided to take the vessel to Beyt as Daud Talu Betara belonged to that place and it was easy for them to land and conceal the smuggled goods there. It is further the case of the customs authorities that after a voyage of about sixteen hours they reached Beyt at midnight, that they grounded the vessel near Haji Kirmani Pir and unloaded the packages of the smuggled wrist watches on the coast. It is alleged by the detaining authority that thereafter these persons who were concerned with the smuggled goods took the help of the petitioner in Special Criminal Application No. 123 of 1979 who was Sarpanch of village Vadalia Sinhan to dispose of some of the goods and the petitioners in Special Criminal Applications Nos. 124 and 125 of 1979 were the persons who purchased a part of these smuggled goods and that is how the present three petitions are alleged to be involved in these

alleged nefarious activities. The petitioner in Special Criminal Application No. 123 of 1979 is sought to be detained with a view to preventing him from engaging in transporting smuggled goods and harbouring persons engaged in smuggling goods, while the petitioners in Special Criminal Applications Nos. 124 and 125 of 1979 are sought to be detained for preventing them from dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods. It is pertinent to note that the aforesaid incident which is said to have taken place near Beyt Island was of 2nd August 1978. Thereafter the petitioners in all these three petitions were sought to be detained by the first respondent in exercise of powers u/s 3 of the COFEPOSA Act by earlier orders dated 8th March 1979 passed against each of the three petitions. These orders were based on grounds which had reference to the incident of 2nd August 1978 as narrated above. All these three petitioners challenged the respective detention orders passed against each by filing three special criminal applications before this Court. The petitioner in Special Criminal Application No. 123 of 1979 filed Special Criminal Application No. 37 of 1979 challenging the previous detention order, while petitioner in Special Criminal Application No. 124 of 1979 filed Special Criminal Application No. 46 of 1979 and the petitioner in Special Criminal Application No. 125 of 1979 filed Special Criminal Application No. 51 of 1979. By the aforesaid three previous special criminal applications, the present three petitioners challenged the previous orders of detention passed against them by the detaining authority on the same allegations which are even at present pressed into service by the detaining authority for detaining the petitioners. It appears that pending the aforesaid three previous special criminal applications filed by the concerned petitioners before this Court, their detention orders dated 8th March 1979 were placed before the Advisory Board for its opinion as to whether the detention of the concerned petitioners was justified or not. The affidavit-in-reply filed in the present special criminal applications by Shree P.M. Shah, Deputy Secretary to Government, Home Department, Sachivalaya, shows that the Advisory Board opined that the detention orders passed against the concerned petitioners on 8th March 1979 were required to be revoked and accordingly the State Government revoked the detention orders passed against the concerned petitioners on 23rd April 1979. It is further revealed from the affidavit-in-reply of Shri Shah in the present proceedings that as the Advisory Board had opined that it was open to Government to pass fresh detention orders after considering the relevant materials, the State Government thereafter made further efforts to gather relevant particulars concerning the role of each of the petitioners in the aforesaid incident and it is further revealed that thereafter present detention orders dated 1st August 1979 have been passed by the first respondent in exercise of powers u/s 3 of the COFEPOSA Act against the concerned petitioners. The concerned detention orders are at Annexure A to each of the petitions. These impugned detention orders passed against the concerned petitioners have brought them to this Court once again by way of present petitions. Along with the concerned detention orders, each of the petitioners is supplied with the grounds on which these fresh detention orders are sought to be

justified. There is no dispute between the parties that the relevant grounds mentioned by the detaining authority as supporting the concerned orders of detention were the same which had resulted in the previous detention orders against the petitioners but with an addition that the concerned grounds also show that a show cause notice was issued to concerned detenu by the Additional Collector of Customs, Ahmedabad, and that thereafter these concerned detenus had filed their replies and one of the detenus, Dinesh Girdharlal Chandarana, who is petitioner in Special Criminal Application No. 124 of 1979 had, in reply to the show cause notice, denied the allegation with regard to smuggling of goods by him and he had also stated that his statement was taken under force and duress. It is further stated in these grounds as supporting the detention orders against the concerned petitioners that the Adjudicating Officer, that is, the Additional Collector of Customs, Ahmedabad, had considered the said affidavit filed by Dines Girdharlal Chandarana and all the replies filed by concerned detenus and others in the said proceedings and that after taking into consideration the retractions made by the concerned detenu and others during the said proceedings and with reference to other evidence on record, the Adjudicating Officer adjudicated the case under his order No. VIII/10-29/Collr/78 dated 20th March 1979 wherein a penalty of Rs. 2000/- had been imposed on the concerned detenu. These averments are additional averments as found in the grounds supplied to each of the detenus in support of the concerned detention order as passed by the detaining authority.

3. Mr. C.V. Jani, learned advocate appearing for the concerned petitioners in all these special criminal applications, submitted at the outset that once the previous detention orders passed against the concerned petitioners were revoked by the first respondent on account of the Advisory Board not endorsing the earlier action of the detaining authority seeking to detain the petitioners on the grounds which we mentioned against them, fresh orders of detention on the same grounds could not have been passed by the detaining authority against the petitioners and consequently the detention orders were ex-facie null and void and without any authority of law. Mr. Jani alternatively submitted that, in any case, the grounds supplied to the concerned petitioners themselves show complete non-application of mind on the part of the detaining authority and hence also the impugned detention orders are ex-facie null and void and are liable to be quashed. Mr. J.R. Nanavati, learned Assistant Government Pleader appearing for the respondents, on the other hand, submitted that the detaining authority had ample jurisdiction to pass fresh orders of detention pertaining even to the same incident and against the same persons as per the provisions of Section 11(2) of the COFEPOSA Act and consequently, the impugned detention orders were quite justified in law. Mr. Nanavati further submitted that the detaining authority had fully applied its mind to all the relevant facts and was quite alive to them when it passed the fresh detention orders against the concerned petitioners and consequently the detention orders were not suffering from any flaw and the challenge of the petitioners was without any basis.

4. So far as the first submission of Mr. Jani is concerned, namely, that the detaining authority had no power to issue fresh detention orders on the same grounds and pertaining to the same incident after the earlier detention orders on the same grounds were revoked by the detaining authority, Mr. J.R. Nanavate, learned Assistant Government Pleader, invited our attention to Section 11 of the COFEPOSA Act. The said section reads as under:

11. (1) Without prejudice to the provisions of Section 21 of the General Clause Act, 1897, a detention order may, at any time, be revoked or modified.

(a) notwithstanding that the order has been made by an officer of a State Government or by the State Government or by the Central Government:

(b) notwithstanding that the order has been made by an officer of the Central Government or by the State Government, by the Central Government.

(2) The revocation of a detention order shall not bar the making of another detention order u/s 3 against the same persons.

Placing reliance on Section 11 Sub-section (2) extracted above, Mr. Nanavati contended before us that the revocation of the earlier detention order was no bar to making another detention order u/s 3 of the Act against the same person and this would only mean that, for the same incident and on the same grounds, the same person can be again detained by a fresh detention order and the revocation of the prior detention order of such a person would be no bar. In order to make good his first submission, Mr. Jani for the petitioners invited our attention to the Supreme Court judgment in the case of Rukmini Bai Gupta Vs. State Govt. of M.P. and others, , which has taken the view that in view of Section 14(2) of Maintenance of Internal Security Act, 1971, a second detention order cannot be made without fresh facts after a revocation or expiry of the first detention order. Now it is pertinent to note that the aforesaid decision of the Supreme Court centres round the wording of Section 14 Sub-section (2) of the Maintenance of Internal Security Act. The said provision at the relevant time stood as under:

14. (1) Without prejudice to the provisions of Section 21 of the General Clauses Act, 1897, a detention order may, at any time be revoked or modified.

(a) notwithstanding that the order has been made by an officer mentioned in Sub-section (2) of Section 3, by the State Government to which that officer is subordinate or by the Central Government;

(b) notwithstanding that the order has been made by a State Government, by the Central Government.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order u/s 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or a State Government or an officer, as the case may be, is satisfied that such an order should be made.

5. It would be apparent that the aforesaid provisions of Section 14 Sub-section (2) of the Maintenance of Internal Security Act, 1971, as they stood at the relevant time, did not authorise the detaining authority to pass any fresh order of detention against the same person without fresh facts. Mr. J.R. Nanavati, learned Assistant Government Pleader, appearing for the respondents, submitted that the wordings of Section 11 Sub-section (2) of the COFEPOSA Act are entirely different and consequently, the ratio of the aforesaid Supreme Court judgment would not directly apply to the facts of the present case. Mr. Nanavati is right when he submits that Section 11 Sub-section (2) of the COFEPOSA Act does not clearly lay down any fetter on the power of the detaining authority to detain a person afresh only on fresh facts as is found in Section 14 Sub-section (2) of the Maintenance of Internal Security Act which came up for consideration before the Supreme Court in the aforesaid decision but still the detaining authority under the COFEPOSA Act is not absolved from its obligation to consider all the relevant facts in a given case which must warrant the making of a fresh order. It is not as if once an earlier order is revoked, a fresh order can be passed by the detaining authority as per the provisions of Section 11 Sub-section (2) without applying its mind to the relevant facts which may be then existing and which would justify a fresh order. Merely because Section 11 Sub-section (2) of the COFEPOSA Act permits a detaining authority to pass a fresh detention order against the same person pertaining to the same incident, on same facts, it does not mean that such fresh order can be mechanically passed. The detaining authority is required to justify its fresh action against the same person by pointing out the relevant facts which weighed with it while it arrived at its subjective satisfaction of detaining a person second time on the same facts and pertaining to the same incident. It is difficult to accept the submission of Mr. J.R. Nanavati for the respondents that there is an absolute power in the detaining authority to detain any person afresh on the same grounds arising out of the same incident almost automatically u/s 11 Sub-section (2). The fresh detention order has got to be justified on the facts of each case which may warrant making of such an order. It is pertinent to note that u/s 11 Sub-section (2), the detaining authority can make another detention order notwithstanding the revocation of the prior detention order but that it must be done in consonance with Section 3 and in exercise of powers u/s 3 of the Act and consequently, all relevant facts must inform the mind of the detaining authority even at the time of exercise of its power of detention at the second stage or, may be, at any stage thereafter. When the detaining authority seeks to re-detain the same person on the same grounds arising out of a given incident if the detaining authority is found to have not informed its mind fully on all facts which warrant the exercise of its power to issue such fresh detention order against the same person, its subjective satisfaction would obviously remain vitiated and the concerned detention order would suffer a fatal infirmity even at the stage of issuance of such a fresh detention order. Thus, it is difficult for us to accept the submission of Mr. Nanavati that there is any absolute power with the detaining authority to detain any person on the same grounds and on the same facts once again after the

previous order detention is revoked. Even though there is such a power u/s 11 Sub-section (2), it is a circumscribed power as shown by us above. In that view of the matter, the present detention orders against the concerned detenus will have to be justified by the detaining authority by showing as to what relevant facts it had considered while arriving at its subjective satisfaction regarding the necessity to detain the concerned detenus once again for the same incident and on the same facts. Mr. Nanavati placed reliance on the affidavit-in-reply of Shree P.M. Shah, Deputy Secretary to Government, Home Department, in that connection. We have already referred to the relevant averments made in the said affidavit-in-reply by the deponent Shree P.M. Shah. The substance of the reply is that the previous detention orders dated 8th March 1979 against the concerned detenus were revoked by the State Government as the Advisory Board had opined that they were liable to be revoked. The deponent further averred that it was further the opinion of the Advisory Board that it was open to the Government to pass fresh orders of detention after considering the relevant facts concerning the relevant facts concerning the detenu and that is how the detaining authority had considered the relevant facts and gathered further information concerning the detenus, a back reference was made to the sponsoring authority and thereafter on a proper consideration of the relevant facts and materials on the grounds mentioned in the letters addressed to petitioners, the State Government was satisfied that it was necessary to pass the impugned orders of detention under Sub-section (1) of Section 3 of the COFEPOSA Act.

6. In this connection, it is necessary to have a look at Section 8 of the COFEPOSA Act. Under the said provision, every detention order has to be reported to the Advisory Board for its opinion. u/s 8 Sub-section (f), it has been provided that in every case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit and in every case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith. Thus, Section 8 Sub-section (f) has to be read in conjunction with Section 11 Sub-section (2) of the Act. It is obvious that if on given facts the Advisory Board opines that there is no sufficient cause for detention of the person concerned, the said opinion on merits enjoins the detaining authority to revoke the detention order and to release the detenu forthwith. Thereafter on the same facts the detaining authority cannot re-exercise its power of detention against the same person u/s 11(2) read with Section 3 as the previous opinion of the Advisory Board u/s 8(f) on same facts would remain binding. But if because of some technical flaw in the previous order of detention, the Advisory Board has recommended revocation of such order, then in that case the detaining authority can justifiably press in service Section 11(2) read with Section 3 of the COFEPOSA Act to sustain a fresh order of

detention against the same person on the same grounds arising out of the same incident after removing the technical (laws that may have vitiated its subjective satisfaction on the previous occasion. In such an eventuality, it cannot be urged that the Advisory Board had opined that there was no sufficient cause to detain the detenu on given facts so as to constitute a binding opinion of the Advisory Board on merits of the grounds of detention at the previous stage. In such circumstances, Section 8(f) would not bar the re-exercise of the power of detention u/s 11(2) read with Section 3 of the COFEPOSA Act against the same detenu on the same facts. Thus, Section 11(2) can be reconciled with Section 8(f) of the COFEPOSA Act. To accede to the submission of Mr. Nanavati that u/s 11(2) the detaining authority has absolute power to re-detain a person on same grounds even though his previous detention order was revoked is to permit a sort of unhealthy competition between the Advisory Board on the hand and the detaining authority on the other. The Advisory Board may hold on facts that the order of detention is not justified, still the detaining authority may reissue the order on same facts and the said order would again be held unjustified by the Advisory Board u/s 8(f) following its previous opinion on the same facts and so on, leading to a spiral of revocations and re-issuances of detention orders in quick succession. This is certainly not warranted by the scheme of the COFEPOSA Act. Such a stalemate cannot be countenanced even for a moment. Revocation of the previous detention order may not bar the making of another detention order u/s 3 but still, while making such fresh detention order, due attention has got to be given by the detaining authority to the salient facts as to under what circumstances the Advisory Board had directed it to revoke its earlier order. All these relevant facts and the concerned opinion of the Advisory Board have got to be kept before the mind's eye of the detaining authority while deciding to detain the concerned detenu afresh. The affidavit-in-reply filed by Shri P.M. Shah who is said to have applied his mind as detaining authority while passing the fresh orders of detention against the concerned three detenus does not show as to how all these facts warranted the passing of the fresh detention orders against the concerned detenus.

7. On the aforesaid state of record as it emerges in the present case, a question directly arises as to whether the detaining authority had really applied its mind while deciding to detain the concerned detenus afresh and while passing the impugned orders dated 1st August 1979. Mr. Nanavati's contention is that the last paragraph of the grounds given in support of the detention orders against all the three petitioners shows that after the Advisory Board's opinion, the prior orders of detention were revoked and then the detaining authority applied its mind to certain relevant facts which were missed by it on previous occasions as the Advisory Board had, on that ground, directed the detaining authority to revoke the previous orders. As Mr. Nanavati has placed reliance on the penultimate paragraph as found in the statement of grounds supplied to each of the detenus by the detaining authority in order to support the impugned orders, it is necessary for us to reproduce the penultimate paragraph of the statement of

grounds given to the detenus in extenso:

A show cause notice No. VIII/10-29/Collr/78 dated 15th January 1979 was issued to you and others by the Additional Collector of Customs, Ahmedabad in the above case. You and others had filed replies to the said show cause notice in respect of which the adjudication proceedings were held. The aforesaid Dinesh Girdharlal Chandarana, in reply to the said show cause notice had denied the allegations with regard to the smuggling of goods by him and also stated that his statement was taken under force and duress. In support of his allegation he had produced an affidavit dated 3rd November 1978 in the adjudication proceedings. The adjudicating officer is the Additional Collector of Customs, Ahmedabad had considered the said affidavit dated 3rd November 1978 produced by Shri Dinesh Girdharlal Chandarana and all the replies filed by you and others in the said proceedings. After taking into consideration the retractions made by you and others during the said proceedings, with reference to the others evidence on record, the adjudicating officer had adjudicated the case under his order No. VIII/10-29/Collr/78 dated 20th March 1979 wherein a penalty of Rs. 2000/- has been imposed on you.

8. It is the contention of Mr. Nanavati that these relevant facts were not considered by the previous detaining authority and hence the previous detention orders were found to be unsustainable by the Advisory Board and consequently the Advisory Board had found these previous detention orders bad. Mr. Nanavati contended that now that infirmity is removed as per the above extracted passage found from the statement of grounds as supplied to each of the detenus in support of the present orders of detention. A close look at the aforesaid penultimate paragraph in the statement of grounds supplied to the concerned detenu leaves no room for doubt that the detaining authority, even while deciding to detain the detenus afresh, has not applied its mind to the relevant facts which may warrant such orders of detention against the concerned petitioners. We find that the detaining authority is referring in the aforesaid paragraph to a statement said to have been made by one Dinesh Girdharlal Chandarana who is one of the detenus, before the customs authorities and the said statement is shown to have been retracted by him later on while replying to the show cause notice issued to him by the customs authorities. Even though the previous statement of Dinesh Girdharlal Chandarana is said to have been retracted by him, it is mentioned in the grounds supplied to the petitioner in Special Civil Application No. 123 of 1979, namely, Jayantilal Khetsi Gada, that the retraction of the previous statement was made by him, namely, by Jayantilal. Same is the position in Special Criminal Application No. 125 of 1979 where the petitioner is Prabhudas Khimji Kotecha and in the statement of grounds supplied to him for supporting the detention order against him, it has been shown in the penultimate paragraph which is in identical terms and signed by the detaining authority that he had retracted his previous statement. In fact, these two petitioners had never retracted any such alleged previous statement and only the petitioner in Special Civil Application No. 124 of 1979-Dinesh Girdharlal

Chandarana had so retracted his previous statement, but the grounds supplied to the concerned detenus showed as if all the petitioners had retracted their previous statements and that fact was considered by the detaining authority. This clearly shows that the detaining authority has not applied its mind at all to the relevant fact which could have warranted fresh detention orders against the concerned petitioners and it appears that almost mechanically the present detention orders seem to have been passed without even trying to see as to which of the petitioners had made any previous statements which were sought to be retracted by him later on. Apart from this infirmity, the further infirmity which is apparent from the aforesaid statement of grounds extracted by us above is that the detaining authority in the statement of grounds mentioned that all relevant statements and retractions were considered by the adjudicating officer who had adjudicated the cases against the concerned petitioners by his order dated 20th March 1979 wherein he had imposed the penalty of Rs. 2000/- against the concerned detenus. Thus, if it is the case of the detaining authority that the Advisory Board had not approved of the previous detention orders on the ground that the relevant facts regarding previous statements of the concerned detenus and their retractions by them at later stages were not before the mind's eye of the detaining authority when previous orders of detention were passed and if the detaining authority wanted to plug the said loophole and wanted to pass fresh orders of detention after considering the relevant material, the fresh consideration of the relevant material ought to have been by the detaining authority itself and not by any one else. It is the subjective satisfaction of the detaining authority which could justify fresh detention order, or any detention order for that matter, in exercise of power u/s 3 of the COFEPOSA Act. These powers are drastic powers which directly impinge upon the liberty of citizens and they have to be strictly viewed and they must fall within the four corners of the concerned provisions of the statute. The detaining authority cannot be given latitude to have cursory look at the relevant facts and to detain the concerned persons in a callous manner. The subjective satisfaction must be based on all relevant facts which would warrant such drastic action of detention without trial. In the present case it is found from the statement of grounds which is supplied to the concerned detenu that the detaining authority had not considered the statement given by the concerned detenu and retraction statement made by him at a later stage, but the consideration thereof was made by the adjudication officer in the customs proceedings. Even at the time of passing fresh orders of detention, the detaining authority did not apply its mind to all the relevant facts which could have warranted issuance of these present detention order. Thus the impugned detention orders, even for the second time, clearly suffer from the vice of non-application of mind by the detaining authority to all the relevant and germane facts and consequently, the subjective satisfaction of the detaining authority which should permeate these detention orders is found to be totally lacking even for the second time. On the first occasion the Advisory Board found the detention orders to be unjustifiable on account of the non-application of mind of the detaining authority to all the

relevant facts. In spite of this, even while re-exercising its power u/s 3 read with Section 11(2) of the COFEPOSA Act for issuing fresh detention orders, the detaining authority did not apply its mind and appears to have mechanically passed the fresh detention orders without arriving at a real and genuine subjective satisfaction on all relevant facts which could warrant such an action. Under the circumstances, the impugned detention orders suffer from the vice of complete non-application of mind on the part of the detaining authority and hence its subjective satisfaction underlying these orders is obviously lacking and, consequently, the impugned orders cannot be sustained and are liable to be quashed. In the result, we make the rule absolute in each of these petitions and direct the respondents to revoke and cancel the impugned detention orders against each of the three petitioners and to set them at liberty forthwith. Rules made absolute in all the three petitions.