



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.14874 of 2025
Reserved on: 18.05.2026
Date of decision: 15.07.2026
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Riya Sharma.Petitioner.

Versus

State of Himachal Pradesh & Ors.Respondents.

Coram

Hon’ble Mr. Justice Vivek Singh Thakur, Judge.

Hon’ble Mr. Justice Ranjan Sharma, Judge.

*Whether approved for reporting?*¹ Yes.

For the petitioner : Mr. Vikas Rajput, Advocate.
For the respondent(s) : Mr. Ramakant Sharma, Additional Advocate General for respondents No.1 & 2-State.
: Ms. Kiran Dhiman, Advocate, vice Ms. Heena Chauhan, Advocate, for respondent No.3-HP Para Veterinary Council.
: Respondent No.4 proceeded *ex parte* vide order dated 05.03.2026.

Vivek Singh Thakur, Judge

Petitioner, invoking jurisdiction of this Court under Article 226 of the Constitution of India, has approached this Court against refusal of her registration with Himachal Pradesh Para Veterinary Council (for brevity, '**State Council**') by referring to provisions of

¹ *Whether the reporters of the local papers may be allowed to see the Judgment? Yes*

Rule 14 of the Himachal Pradesh Para Veterinary Council Rules, 2011 (for brevity, '**HPPVC Rules**'), framed in exercise of powers under the Himachal Pradesh Para Veterinary Council Act, 2010 (for brevity, '**HPPVC Act**').

2. Petitioner, a *bona fide* resident of Himachal Pradesh, has completed for a Diploma in Veterinary Science and Animal Health Technology from College of Veterinary Science, Rampura Phul, District Bathinda, Punjab, an institution of Guru Angad Dev Veterinary and Animal Sciences University, District Ludhiana, Punjab (for brevity, '**GADVAS University**').

3. Section 38 of HPPVC Act, 2010, provides that State Council shall cause to maintain a State Register of Para Veterinary Practitioners in such form, as may be prescribed, by Regulations with further provision that no person shall be registered in the State Register as Para Veterinary Practitioners, unless he possesses a recognized qualification and has not paid such fee, as may be prescribed and different fee may be prescribed for different qualifications and the registration shall be valid for a period of three years.

4. Section 53 of HPPVC Act, 2010, empowers the State to make Rules for carrying out the purposes of the Act, whereas

Section 54 of the Act empowers the Council to make Regulations with previous approval of the State Government and subject to Rules made under Section 53 of the Act.

5. In exercise of powers under Section 53 of HPPVC Act, vide notification dated 22.09.2011, the State has notified the Himachal Pradesh Para Veterinary Council Rules, 2011.

6. Rule 14 of HPPVC Rules, 2011, deals with registration of Para Veterinary Practitioners and renewal fee etc., which reads as under:-

“14. Registration of Para-Veterinary Practitioner and renewal fees.-(1) Any person who has qualified the course as approved by the State Government from time to time in Para-veterinary subjects from the Training Centers of Animal Husbandry Department whether temporarily or permanently established, from Private Institutions and Universities recognized by the State Government shall be eligible for registration in the Council. The private Institutions and Universities imparting this training shall have to be got registered with the Council.

(2) The application under section 38 to register the Para-veterinary practitioner in a State Registrar of Para-veterinary practitioners maintained under sub-section (2) of section 38 shall be submitted in Form D, either by registered post or in person to the Registrar and shall be accompanied by a fees of rupees two hundred fifty only in the form of a bank draft drawn on any scheduled bank in favour of the Registrar and attested copies of certificate of Training issued by the Animal Husbandry Department or Choudhary Sarwan Kumar, Himachal Pradesh Krishi Vishwavidyala Palampur.

(3) Certificate of Registration as Para-veterinary practitioner shall be issued by the Registrar in Form-E and shall be valid for a period of three years from the date of its issue. No person without registration shall either hold any office with the State

Government, autonomous bodies or practice anywhere in the state.

(4) Every Para-veterinary practitioner registered under this rule shall renew his certificate of registration after every three years on payment of fees of rupees one hundred only in the form of bank draft drawn on scheduled bank in favour of the Registrar.

(5) The application under sub- rule (4) to: renew the certificate of Registration as a Para-veterinary practitioner shall be submitted in Form-F either by registered post or in person.”

7. For registration with the State Council, a person must have qualified the course of Para Veterinary subjects.

8. Section 2(a), 2(e), 2(f), 2(j) and 2(k) of HPPVC Act, 2010, define “approved institution”, “Para-veterinarian”, “institution”, “recognized Para-veterinary qualifications” and “registered Para-veterinary practitioner”, which read as under:-

“2. **Definitions.**- In this Act, unless the context otherwise requires,-

- (a) “approved institution” means a State Level Veterinary Hospital, Disease Investigation Laboratories, Veterinary Polyclinic, Veterinary Hospital, Veterinary Dispensary, Livestock and Poultry Farms or other such institution recognized by a University as an institution in which a person may undergo the training, if any, required by his course of study before the award of any Para-veterinary qualification to him;
- (b) xx xx xx
- (c) xx xx xx
- (d) xx xx xx
- (e) “Para-veterinarian” means any personnel qualified in Para-veterinary subject and who helps in practice of veterinary medicine and designated as Veterinary Pharmacist, Animal Husbandry Assistant (AHA) or Chief Veterinary Pharmacist;

- (f) “institution” means any institution, within or outside India, which grants degrees, diplomas, certificates or licence in Para-veterinary;
 - (g) xx xx xx
 - (h) xx xx xx
 - (i) xx xx xx
 - (j) “recognized Para-veterinary qualifications” means a degree, diploma or certificate in any Para-veterinary qualifications, granted by any University established bylaw or any other institution recognized by the State Government in this behalf;
 - (k) “registered Para-veterinary practitioner” means a person registered as such undersection 38 of this Act;
-”

9. Petitioner, after completing her Diploma from GADVAS University, applied for registration with the State Council, but her application was rejected, whereupon she, by filing a written application dated 08.07.2025 (Annexure P-3), sought reasons for rejection of her application for registration with the State Council.

10. Vide communication dated 28.07.2025 (Annexure P-4), Registrar, H.P. Para Veterinary Council, communicated rejection of the application of the petitioner by reiterating Rule 14 of HPPVC Rules, 2011, with the following observations:-

“The diploma in Veterinary Science and Animal Health Technology from Guru Angad Dev, Vety. and Animal Health University, Ludhiana (Punjab) is not recognized by the Himachal Pradesh State Government and the said institution is also not registered with HPPVC, which is mandatory for registration of practitioner with the said Council.

Therefore, the application with the HPPVC is not considered.”

11. Undoubtedly, GADVAS University is a University established by a statute enacted by Punjab State Legislative Assembly vide Act No.16 of 2005. GADVAS University has been recognised by University Grants Commission ('UGC') to receive Central assistance under Section 12-B of the UGC Act, 1956. GADVAS University has accreditation from UGC and Indian Council of Agricultural Research ('ICAR') and has been admitted as a regular member of Association of Indian Agricultural Universities ('AIAU') and Association of Indian Universities ('AIU'). College of Veterinary Science, Rampura Phul, District Bathinda (Punjab), has been established as a constituent college of GADVAS University, Ludhiana, which has been functional since 01.10.2019, for imparting education in Bachelor of Veterinary Sciences and Animal Husbandry Programme with approval of Veterinary Council of India.

12. The HPPVC Act, 2010, provides that 'recognized Para Veterinary qualifications' means a degree, diploma or certificate in any Para Veterinary qualification granted by any University established by law or any other institution recognized by the State Government in this behalf. Therefore, the Diploma obtained from GADVAS University, established by law, is a recognized Para Veterinary qualification.

13. The stand of the respondents that GADVAS University must be recognized by the State Council is misconceived, as Section 2(j) of the HPPVC Act, 2010, recognizes Para Veterinary qualifications granted by any University established by law. Once a University is established by law, there is no necessity for recognition of the said University by the State Government. Provisions of Section 2(j) of the HPPVC Act clearly define two types of institutions: first, a University established by law, for which there is no condition of recognition by the State Government, and second, any other institution recognized by the State Government. Therefore, the Diploma completed by the petitioner from GADVAS University is a recognized Para Veterinary qualification.

14. Section 38 of the HPPVC Act, 2010, deals with the State Register and registration of Para Veterinary Practitioners. It does not restrict registration to candidates who complete the relevant degree, diploma or certificate in Veterinary Science from Universities established by law as well as Institutions recognized by the State Government. Recognition by the State Government is mandatory for any other institution, but not for Universities established by law.

15. Provisions of the HPPVC Act, 2010, devolves power to frame Rules from Section 53 of the HPPVC Act. Once there is no

requirement for registration with Government, the Universities imparting education in Veterinary Science, the Rules cannot restrict eligibility only to Institutions/Universities recognized by the State Government, and Rules cannot impose a condition requiring a University duly established by an enactment of the State Legislature and also recognized by the UGC and having accreditation from the UGC as well as Indian Council of Agricultural Research ('ICAR'), to be recognized by the State for registration of a person completing the relevant course in Veterinary Science from such University. Therefore, Rule 14 of the HPPVC Rules, 2011, to the extent it provides that institutions/Universities imparting training shall have to be registered with the State Council, as well as providing that only Universities recognized by the State Government shall be eligible for registration in the State Council, is in direct conflict with the provisions of the HPPVC Act, 2010.

16. It is settled law that Rules and Regulations can supplement the Act, but cannot supplant the same. In this regard, a judgment of this High Court in **Som Krishan vs. Paras Ram & Ors.**, reported in **AIR 1958 (Himachal Pradesh) 26**, is relevant to be referred to, and para 12 whereof reads as under:-

12. Rule 78 has no application here, because the District Judge has found, that the deposit was made according to rules.

The only question, therefore, that remains to be decided, is, whether the petitioner was debarred from requesting the Court to alter or amend his pleadings, under the provisions of Order 6, Rule 17. The answer to this question would depend upon, whether Rule 69 of the Territorial Councils Rules 1957 is derogatory or supplementary to Section 16 of the Territorial Councils Act. Learned Counsel for the petitioner, vehemently, argued, that a rule could never supersede any provision of the Act, under which it has been framed. He cited the following authorities *Radha Krishan v. Compensation Officer, Meja, Allahabad, AIR 1954 All 202 (A)*. There a Division Bench of that High Court had occasion to indicate that :

"Rules made under the rule making provision of an Act cannot take away what is given by the Act. Rules are for the purpose of carrying out the provisions of the Act. Hence, the contention that the State Government can make a rule, namely Rule 84, taking away the discretion of the Compensation Officer under Section 69 cannot be accepted."

Mustarshid Ali v. Commr. of Wakfs, AIR 1954 Cal 436 (B). There a learned Judge of that High Court had occasion to indicate that :

"In some statutes, power is given to frame rules and when so framed they are made part of the statute. In such a case, it might be permissible to supplement the provisions of the statute itself, within limits. But where rules are to be framed for "carrying out the purpose of the Act," such rules cannot travel beyond the four corners of the Act itself."

"In the case of statutory rules, the Court can always go into the question, as to whether they are inconsistent with the statute under which they are made."

Abdul Gani v. Settlement Officer, Nowgong, AIR 1955 Assam 45 (C). There a Division Bench of that High Court held that;

"It is fundamental that a rule-making body cannot frame rules in conflict with or derogating from the substantive provisions of the law or statute under which the rules are framed."

17. A Constitution Bench of the Apex Court in ***Nedurimili Janardhana Reddy vs. Progressive Democratic Students' Union and Ors.***, reported in **(1994) 6 SCC 506**, is also relevant, wherein it

has been held that Rules cannot be made to supplant the provisions of the Act, but to supplement them, and they have to be read as such.

18. In this regard, the following paragraph from the pronouncement of the Apex Court in ***St. Johns Teachers Training Institute vs. Regional Director, National Council for Teacher Education & Anr.***, reported in **(2003) 3 SCC 321**, is relevant:-

“10. A Regulation is a rule or order prescribed by a superior for the management of some business and implies a rule for general course of action. Rules and Regulations are all comprised in delegated legislations. The power to make subordinate legislation is derived from the enabling Act and it is fundamental that the delegate on whom such a power is conferred has to act within the limits of authority conferred by the Act. Rules cannot be made to supplant the provisions of the enabling Act but to supplement it. What is permitted is the delegation of ancillary or subordinate legislative functions, or, what is fictionally called, a power to fill up details. The legislature may, after laying down the legislative policy confer discretion on an administrative agency as to the execution of the policy and leave it to the agency to work out the details within the frame work of policy. The need for delegated legislation is that they are framed with care and minuteness when the statutory authority making the Rule, after coming in to force of the Act, is in a better position to adapt the Act to special circumstances. Delegated legislation permits utilisation of experience and consultation with interests affected by the practical operation of statutes. Rules and Regulations made by reason of the specific power conferred by the Statutes to make Rules and Regulations establish the pattern of conduct to be followed. Regulations are in aid of enforcement of the provisions of the Statute. The process of legislation by departmental Regulations saves time and is intended to deal with local variations and the power to legislate by statutory instrument in the form of Rules and Regulations is conferred by Parliament. The main justification for delegated legislation is that the legislature being over burdened

and the needs of the modern day society being complex it can not possibly foresee every administrative difficulty that may arise after the Statute has begun to operate. Delegated legislation fills those needs. The Regulations made under power conferred by the Statute are supporting legislation and have the force and affect, if validly made, as the Act passed by the competent legislature. (See *Sukhdev Singh v. Bhagatram* AIR 1975 SC 1331)”

19. The Apex Court in ***Union of India & Ors. vs. S. Srinivasan***, reported in **(2012) 7 SCC 683**, has held as under:-

“21. At this stage, it is apposite to state about the rule-making powers of a delegating authority. If a rule goes beyond the rule-making power conferred by the statute, the same has to be declared ultra vires. If a rule supplants any provision for which power has not been conferred, it becomes ultra vires. The basic test is to determine and consider the source of power which is relatable to the rule. Similarly, a rule must be in accord with the parent statute as it cannot travel beyond it.

22. In this context, we may refer with profit to the decision in *General Officer Commanding-in-Chief v. Subhash Chandra Yadav* [(1988) 2 SCC 351] wherein it has been held as follows : (SCC p. 357, para 14)

“14. ... before a rule can have the effect of a statutory provision, two conditions must be fulfilled, namely, (1) it must conform to the provisions of the statute under which it is framed; and (2) it must also come within the scope and purview of the rule-making power of the authority framing the rule. If either of these two conditions is not fulfilled, the rule so framed would be void.”

23. In *Delhi Admn. v. Siri Ram* [(2000) 5 SCC 451] it has been ruled that it is a well-recognised principle that the conferment of rule-making power by an Act does not enable the rule-making authority to make a rule which travels beyond the scope of the enabling Act or which is inconsistent therewith or repugnant thereto.

24. In *Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi* [(1975) 1 SCC 421] the Constitution Bench has held that : (SCC p. 433, para 18)

“18. ... statutory bodies cannot use the power to make rules and regulations to enlarge the powers beyond the

scope intended by the legislature. Rules and regulations made by reason of the specific power conferred by the statute to make rules and regulations establish the pattern of conduct to be followed”.

25. In *State of Karnataka v. H. Ganesh Kamath* [(1983) 2 SCC 402] it has been stated that : (SCC p. 410, para 7)

“7. ... It is a well-settled principle of interpretation of statutes that the conferment of rule-making power by an Act does not enable the rule-making authority to make a rule which travels beyond the scope of the enabling Act or which is inconsistent therewith or repugnant thereto.”

26. In *Kunj Behari Lal Butail v. State of H.P.* [(2000) 3 SCC 40] it has been ruled thus : (SCC p. 46, para 13)

“13. It is very common for the legislature to provide for a general rule-making power to carry out the purpose of the Act. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the test of having been so framed as to fall within the scope of such general power conferred. If the rule-making power is not expressed in such a usual general form then it shall have to be seen if the rules made are protected by the limits prescribed by the parent Act.”

27. In *St. Johns Teachers Training Institute v. National Council for Teacher Education* [(2003) 3 SCC 321] it has been observed that : (SCC p. 331, para 10)

“10. A regulation is a rule or order prescribed by a superior for the management of some business and implies a rule for general course of action. Rules and regulations are all comprised in delegated legislations. The power to make subordinate legislation is derived from the enabling Act and it is fundamental that the delegate on whom such a power is conferred has to act within the limits of authority conferred by the Act. Rules cannot be made to supplant the provisions of the enabling Act but to supplement it. What is permitted is the delegation of ancillary or subordinate legislative functions, or, what is fictionally called, a power to fill up details.”

28. In *Global Energy Ltd. v. Central Electricity Regulatory Commission* [(2009) 15 SCC 570] this Court was dealing with the validity of clauses (b) and (f) of Regulation 6-A of the Central Electricity Regulatory Commission (Procedure, Terms and

Conditions for Grant of Trading Licence and Other Related Matters) Regulations, 2004. In that context, this Court expressed thus : (SCC p. 579, para 25)

“25. It is now a well-settled principle of law that the rule-making power ‘for carrying out the purpose of the Act’ is a general delegation. Such a general delegation may not be held to be laying down any guidelines. Thus, by reason of such a provision alone, the regulation-making power cannot be exercised so as to bring into existence substantive rights or obligations or disabilities which are not contemplated in terms of the provisions of the said Act.”

29. In the said case, while discussing further about the discretionary power, delegated legislation and the requirement of law, the Bench observed thus : (*Global Energy Ltd. case* [(2009) 15 SCC 570] , SCC p. 589, para 73)

“73. The image of law which flows from this framework is its neutrality and objectivity: the ability of law to put sphere of general decision-making outside the discretionary power of those wielding governmental power. Law has to provide a basic level of ‘legal security’ by assuring that law is knowable, dependable and shielded from excessive manipulation. In the contest of rule-making, delegated legislation should establish the structural conditions within which those processes can function effectively. The question which needs to be asked is whether delegated legislation promotes rational and accountable policy implementation. While we say so, we are not oblivious of the contours of the judicial review of the legislative Acts. But, we have made all endeavours to keep ourselves confined within the well-known parameters.”

30. In this context, it would be apposite to refer to a passage from *State of T.N. v. P. Krishnamurthy* [(2006) 4 SCC 517] wherein it has been held thus : (SCC p. 529, para 16)

“16. The court considering the validity of a subordinate legislation, will have to consider the nature, object and scheme of the enabling Act, and also the area over which power has been delegated under the Act and then decide whether the subordinate legislation conforms to the parent statute. Where a rule is directly inconsistent with a mandatory provision of the statute, then, of course, the task of the court is simple and easy. But where the contention is that the inconsistency or non-conformity of the rule is not

with reference to any specific provision of the enabling Act, but with the object and scheme of the parent Act, the court should proceed with caution before declaring invalidity.”

31. In *Pratap Chandra Mehta v. State Bar Council of M.P.* [(2011) 9 SCC 573] , while discussing about the conferment of extensive meaning, it has been opined that : (SCC p. 604, para 58)

“58. ... The Court would be justified in giving the provision a purposive construction to perpetuate the object of the Act, while ensuring that such rules framed are within the field circumscribed by the parent Act. It is also clear that it may not always be absolutely necessary to spell out guidelines for delegated legislation, when discretion is vested in such delegatee bodies. In such cases, the language of the rule framed as well as the purpose sought to be achieved, would be the relevant factors to be considered by the Court.”

32. Keeping in view the aforesaid enunciation of law, we think it appropriate to consider the nature, object and scheme of the enabling Act, the power conferred under the Rule, the concept of purposive construction and the discretion vested in the delegated bodies.”

20. The Apex Court in ***Ram Chandra Choudhary & Ors. vs. Roop Nagar Dugdh Utpadak Sahakari Samiti Limited & Ors.***, reported in **2026 SCC OnLine SC 583** (*Civil Appeal No.4352 of 2026 arising out of SLP(C) No.38579 of 2025*), has observed as under:-

“20.8. The legal position governing the validity of subordinate legislation is well settled. In *State of T.N. v. P. Krishnamurthy*², this Court held that subordinate legislation carries a presumption of validity and may be invalidated only on limited grounds including lack of legislative competence, violation of constitutional or statutory provisions, inconsistency with the parent Act, or manifest arbitrariness. The Court emphasised that the inquiry must be directed at whether the subordinate legislation conforms to the

² (2006) 4 SCC 517

object, scheme and scope of the enabling Act. The following paragraphs are apposite:

“Whether the rule is valid in its entirety?

15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognised that a subordinate legislation can be challenged under any of the following grounds:

(a) Lack of legislative competence to make the subordinate legislation.

(b) Violation of fundamental rights guaranteed under the Constitution of India.

(c) Violation of any provision of the Constitution of India.

(d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.

(e) Repugnancy to the laws of the land, that is, any enactment.

(f) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules).

16. The court considering the validity of a subordinate legislation, will have to consider the nature, object and scheme of the enabling Act, and also the area over which power has been delegated under the Act and then decide whether the subordinate legislation conforms to the parent statute. Where a rule is directly inconsistent with a mandatory provision of the statute, then, of course, the task of the court is simple and easy. But where the contention is that the inconsistency or non-conformity of the rule is not with reference to any specific provision of the enabling Act, but with the object and scheme of the parent Act, the court should proceed with caution before declaring invalidity.

17. In Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India [(1985) 1 SCC 641 : 1985 SCC (Tax) 121 : (1986) 159 ITR 856] this Court referred to several grounds on which a subordinate legislation can be challenged as follows: (SCC p. 689, para 75)

“75. A piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a statute passed by a competent legislature. Subordinate legislation may be questioned on any of the grounds on which plenary legislation is

questioned. In addition it may also be questioned on the ground that it does not conform to the statute under which it is made. It may further be questioned on the ground that it is contrary to some other statute. That is because subordinate legislation must yield to plenary legislation. It may also be questioned on the ground that it is unreasonable, unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary.”

(emphasis supplied)

18. In *Supreme Court Employees' Welfare Assn. v. Union of India* [(1989) 4 SCC 187 : 1989 SCC (L&S) 569] this Court held that the validity of a subordinate legislation is open to question if it is ultra vires the Constitution or the governing Act or repugnant to the general principles of the laws of the land or is so arbitrary or unreasonable that no fairminded authority could ever have made it. It was further held that the Rules are liable to be declared invalid if they are manifestly unjust or oppressive or outrageous or directed to be unauthorised and/or violative of the general principles of law of the land or so vague that it cannot be predicted with certainty as to what it prohibited or so unreasonable that they cannot be attributed to the power delegated or otherwise disclose bad faith.

19. In *Shri Sitaram Sugar Co. Ltd. v. Union of India* [(1990) 3 SCC 223] a Constitution Bench of this Court reiterated: (SCC pp. 251-52, para 47)

“47. Power delegated by statute is limited by its terms and subordinate to its objects. The delegate must act in good faith, reasonably, intra vires the power granted, and on relevant consideration of material facts. All his decisions, whether characterised as legislative or administrative or quasi-judicial, must be in harmony with the Constitution and other laws of the land. They must be ‘reasonably related to the purposes of the enabling legislation’. See *Leila Mourning v. Family Publications Service* [1973 SCC OnLine US SC 85 : 411 US 356 (1973) : 36 L.Ed.2d 318]. If they are manifestly unjust or oppressive or outrageous or directed to an unauthorised end or do not tend in some degree to the accomplishment of the objects of delegation, court might well say, ‘Parliament never intended to give authority to make such rules; they are unreasonable and ultra vires’: per Lord Russel of Killowen, C.J. in *Kruse v. Johnson* [[1898] 2 Q.B. 91 : [1895-99] All ER Rep 105].”

20. In *St. John's Teachers Training Institute v. Regional Director, NCTE* [(2003) 3 SCC 321] this Court explained the scope and purpose of delegated legislation thus: (SCC p. 331, para 10)

“10. A regulation is a rule or order prescribed by a superior for the management of some business and implies a rule for general course of action. Rules and regulations are all comprised in delegated legislations. The power to make subordinate legislation is derived from the enabling Act and it is fundamental that the delegate on whom such a power is conferred has to act within the limits of authority conferred by the Act. Rules cannot be made to supplant the provisions of the enabling Act but to supplement it. What is permitted is the delegation of ancillary or subordinate legislative functions, or, what is fictionally called, a power to fill up details. The legislature may, after laying down the legislative policy confer discretion on an administrative agency as to the execution of the policy and leave it to the agency to work out the details within the framework of policy. The need for delegated legislation is that they are framed with care and minuteness when the statutory authority making the rule, after coming into force of the Act, is in a better position to adapt the Act to special circumstances. Delegated legislation permits utilisation of experience and consultation with interests affected by the practical operation of statutes.”

(emphasis supplied)

20.9. These principles have been reaffirmed in *Naresh Chandra Agrawal v. ICAI*³, wherein this Court clarified the doctrine of *ultra vires* and laid down a structured test. It was also emphasised that where a statute confers a general power along with enumerated heads, the latter are illustrative and do not restrict the amplitude of the general power, so long as the subordinate legislation advances the object of the Act. The following paragraphs are apposite:

“15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognised that a subordinate legislation can be challenged under any of the following grounds:

(a) Lack of legislative competence to make the subordinate legislation.

³ (2024) 13 SCC 241

(b) Violation of fundamental rights guaranteed under the Constitution of India.

(c) Violation of any provision of the Constitution of India.

(d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.

(e) Repugnancy to the laws of the land, that is, any enactment.

(f) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules)."

(emphasis supplied)

37. From reference to the precedents discussed above and taking an overall view of the instant matter, we proceed to distil and summarise the following legal principles that may be relevant in adjudicating cases where subordinate legislation are challenged on the ground of being "ultra vires" the parent Act:

37.1. The doctrine of ultra vires envisages that a rule-making body must function within the purview of the rule-making authority, conferred on it by the parent Act. As the body making Rules or Regulations has no inherent power of its own to make rules, but derives such power only from the statute, it must necessarily function within the purview of the statute. Delegated legislation should not travel beyond the purview of the parent Act.

37.2. Ultra vires may arise in several ways; there may be simple excess of power over what is conferred by the parent Act; delegated legislation may be inconsistent with the provisions of the parent Act; there may be non-compliance with the procedural requirement as laid down in the parent Act. It is the function of the courts to keep all authorities within the confines of the law by supplying the doctrine of ultra vires.

37.3. If a rule is challenged as being ultra vires, on the ground that it exceeds the power conferred by the parent Act, the Court must, firstly, determine and consider the source of power which is relatable to the rule. Secondly, it must determine the meaning of the subordinate legislation itself and finally, it must decide whether the subordinate legislation is consistent with and within the scope of the power delegated.

37.4. Delegated rule-making power in statutes generally follows a standardised pattern. A broad section grants authority with phrases like “to carry out the provisions” or “to carry out the purposes”. Another sub-section specifies areas for delegation, often using language like “without prejudice to the generality of the foregoing power”. In determining if the impugned rule is intra vires/ultra vires the scope of delegated power, courts have applied the “generality v. enumeration” principle.

37.5. The “generality v. enumeration” principle lays down that, where a statute confers particular powers without prejudice to the generality of a general power already conferred, the particular powers are only illustrative of the general power, and do not in any way restrict the general power. In that sense, even if the impugned rule does not fall within the enumerated heads, that by itself will not determine if the rule is ultra vires/intra vires. It must be further examined if the impugned rule can be upheld by reference to the scope of the general power.

37.6. The delegated power to legislate by making rules “for carrying out the purposes of the Act” is a general delegation, without laying down any guidelines as such. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the Act of having been so framed as to fall within the scope of such general power confirmed.

37.7. However, it must be remembered that such power delegated by an enactment does not enable the authority, by rules/regulations, to extend the scope or general operation of the enactment but is strictly ancillary. It will authorise the provision of subsidiary means of carrying into effect what is enacted in the statute itself and will cover what is incidental to the execution of its specific provision. In that sense, the general power cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself.

37.8. If the rule-making power is not expressed in such a usual general form but are specifically enumerated, then it shall have to be seen if the rules made are protected by the limits prescribed by the parent Act.”

21. Applying the aforesaid exposition of law to the present case, it is apparent that part of Rule 14 of HPPVC Rules, 2011, is in

conflict with the parent Act, i.e. HPPVC Act, 2010, and thus is *ultra vires* the parent Act and liable to be struck down to the extent it provides that Universities imparting Para Veterinary Science training shall have to be got registered with the Council and Universities recognized by the State Government shall be eligible for registration in the Council. Accordingly, the said part of Rule 14 is quashed and set aside. Resultantly, communication dated 28.07.2025 (Annexure P-4) is also quashed and set aside.

22. Consequently, petitioner is held entitled to be registered with Himachal Pradesh Para Veterinary Council ('State Council') and the State Council is directed to register the petitioner within one week, subject to completion of all other codal formalities. Registration certificate be issued to the petitioner accordingly.

23. Petition is disposed of in above terms. Pending miscellaneous applications(s), if any, also stand disposed of.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

15th July, 2026
(Pardeep)