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शक्ति उत्थान आश्रम लखीसराय बिहार

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FORMATION OF A COMPANY

Question 7:

Distinguish between 'preliminary contracts' and 'provisional contracts'.

ANSWER:

Preliminary contracts: These contracts are signed by the promoters of a company with the third parties during the promotion of the company. These contracts are also called pre-incorporation contracts as they are created before the company is incorporated. Preliminary contracts are non-binding, as the company cannot ratify them. Therefore, these contracts are not enforceable unless fresh contracts are created on the same terms and conditions after the company comes into existence.

Provisional contracts: These contracts are signed after the incorporation of a company and before the commencement of business. They are different from preliminary contracts as they are enforceable automatically once the company obtains the certificate of commencement of business.

Question 8

Explain the term 'Minimum Subscription'.

ANSWER:

When shares are issued to the general public, the minimum amount that must be subscribed by the public so that the company can allot shares to the applicants is termed 'minimum subscription'. As per the Companies Act of 1956, the minimum subscription of shares cannot be less than 90 per cent of the issued amount. If the minimum subscription is not received, the company cannot allot shares to its applicants, and it shall immediately refund the entire application amount received from the applicants.
