Economically Responsible Justice

Why in news?

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The Supreme Court collegium has recently cleared a record 51 names for high court judge posts. Not much information is available in the public domain about the expertise of the selected individuals.

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What is the need for economic analysis?

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- In the rush to fill judicial vacancies, there should be no compromise in the quality of judicial decisions and ensure judges are capable of dealing with increasingly complex issues interlinking law, economics, technology, intellectual property, competition and allied fields.
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- An inability or **unwillingness to take into account economic considerations** in judicial decisions is putting a significant number of jobs at risk.
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- Knowledge about the interfaces between law, economics, technology, cyber security, intellectual property and allied fields—and their overlaps—is increasingly becoming relevant for the higher judiciary.
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- The higher judiciary is also increasingly dealing with issues which have large-scale economic and commercial impact.
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- A lack of economic analysis while passing judgement has the potential to create an adverse impact on employment, growth of infrastructure, hospitality, and balance sheets of banks and financial institutions, without having the desired positive impact on social behaviour.
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- Ex. the **Supreme Court's recent order banning the sale of liquor** near

highways could adversely affect the tourism sector and result in the loss of a great many jobs.
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- A comprehensive economic analysis not only aids in sound decision making, but also **promotes transparency and improves the quality of decision making.**
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Does India have any prior experience?

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- While many issues have direct and indirect economic impact, the need for conducting economic analysis of judicial decisions was not felt, perhaps owing to our **limited understanding of the linkages between judicial decisions and economic governance.**
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- In **M.L. Sharma v. Principal Secretary and Ors**, the Supreme Court heard parties on the potential economic impact of cancellation of coal blocks, but was persuaded by Central government submissions that it was fully prepared to deal with the impact of cancellation and levy of additional penalty on coal block allottees.
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- It did not provide any rationale for accepting the Central government's contentions; nor did it take into account the economic impact of cancellation and levy of penalty on several stakeholders.
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What is the way ahead?

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- Accordingly, **capacity building within the judiciary** to balance different competing interests will be needed.
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- The economic impact assessment of judicial decisions will aid in upholding the credibility of the judiciary and the quality of judicial decision making, which is increasingly coming under scrutiny.
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- Judges need to understand the complex linkages between various areas of governance and economic and legal activity today to ensure delivery of

economically responsible justice.
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Source: Live Mint

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