

**RULING on an APPLICATION for PERMISSION to APPEAL**

**By**

**Ashok Mahajan**

**In the Matter of EA/2012/0243**

**Mahajan v Information Commissioner and The Office of the Legal  
Ombudsman**

1. I have interpreted Mr Mahajan's letter of 8 July 2013 as an application for permission to Appeal to the Upper Tribunal (Administrative Appeals Chamber) from the decision dated 12 June 2013 dismissing his appeal from the Decision Notice of the Information Commissioner dated 6 November 2012 under reference EA/2012/0243 ("the Decision").
2. The right to appeal arises out of section 11 of the Tribunals, Courts and Enforcement Act 2007 ("TCEA 2007"). That section provides that any party to a decision of a First Tier Tribunal has a right of appeal to the Upper Tribunal on any point of law but that the right may only be exercised with permission. Under rule 42 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 ("the Rules") permission to appeal must be sought from the relevant First-tier Tribunal.
3. Rule 43(1) requires the Tribunal, on receiving an application for permission to appeal that satisfies those requirements, to consider first whether to review the decision in accordance with Rule 44. That rule provides, in relevant part, as follows:

*"(1) The Tribunal may only undertake a review of a decision –  
(a) pursuant to rule 43(1)...; and  
(b) if it is satisfied that there was an error of law in the  
decision"*

4. Mr Mahajan asks, in his letter to this Tribunal, for an order stating whether or not he has a right to appeal against the Tribunal's decision pursuant to section 9 of the Human Rights Act 1998. In his letter to the Upper Tribunal of the same date Mr Mahajan alleges that the First-tier Tribunal, in proceeding with the hearing of his appeal on 16 May 2013, displayed bias and unlawfully took advantage of his circumstances for the purpose of maliciously covering up wrongdoings by the Information Commissioner and the Ombudsman.
  
5. Mr Mahajan has set out further criticisms in what he describes as "part complete Grounds of Appeal" addressed to the Upper Tribunal. These were also attached to his letter to the First-tier Tribunal and I have considered them in reaching this decision.
  
6. I am satisfied that there was nothing in either the directions issued prior to the hearing, or the decision to proceed with the hearing against Mr Mahajan's objections, which deprived Mr Mahajan of an adequate opportunity to present his evidence and arguments or that was otherwise procedurally unfair.
  
7. I have also satisfied myself, both by reference to the criticisms set out in the Grounds of Appeal, and generally, that:
  - (a) the Tribunal's reasons for reaching its conclusion were adequately and intelligibly recorded in the Decision;
  - (b) the law which the Tribunal was required to apply, namely FOIA section 40(2), was correctly identified;
  - (c) the Tribunal interpreted that statutory provision correctly, taking account of the submissions it had received from the parties;

- (d) the facts relevant to the case were apparent from the materials presented to the Tribunal such that there was no error of law in reaching a conclusion that was not supported by evidence;
- (e) the Tribunal's application of the evidence to the law was rational and its conclusion was justifiable.

8. In light of what I have said I do not believe that there was an error of law in the Decision.
9. I do not believe that Mr Mahajan has grounds to appeal the Decision under section 11. Accordingly, pursuant to rule 43(2), I also refuse his application for leave to appeal.
10. Under Rule 23(2) of the Tribunal Procedure (Upper Tribunal) Rules 2008, as amended, Mr Mahajan has one month from the date of this Ruling is sent to her to lodge an application for permission to appeal directly with the Upper Tribunal by sending it to:

The Upper Tribunal (Administrative Appeals Chamber)  
5<sup>th</sup> Floor, Chichester Rents  
81 Chancery Lane  
London WC2A 1DD  
DX: 0012 London/Chancery Lane

Further information can be found at:  
[www.administrativeappeals.tribunals.gov.uk](http://www.administrativeappeals.tribunals.gov.uk).

Judge  
23 July 2013