Neutral Citation Number **[2026] EWHC 3018 (Admin)**

Case No: AC-2025-LON-004284

**IN THE HIGH COURT OF JUSTICE**
**KING'S BENCH DIVISION**
**ADMINISTRATIVE COURT**

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 20 November 2026

**Before** :

**HHJ Sylvia de Bertodano (sitting as a Deputy Judge of the High Court)**

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**Between :**

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|---|---|
| **THE KING**<br>**(on the application of Jayeshbhai Kanubhai Patel)** | **Claimant** |
| **- and –** | |
| **The Secretary of State for the Home Department** | **Defendant** |

**Amanda Jones** (instructed by **Privity Legal Limited**) for the **Claimant**
**Stefan Hyman** (instructed by **Government Legal Department**) for the **Defendant**

Hearing dates: 20 October 2026

# JUDGMENT

**Introduction**

1. This is the Claimant's claim for judicial review of the Defendant's decision dated 28 August 2025, refusing his application to be registered as a British citizen pursuant to section 4C of the British Nationality Act 1981 ("the 1981 Act"). This was a reconsideration decision which upheld an earlier decision of 6 March 2025.

2. Permission was initially refused by Tom Little KC, sitting as a Deputy High Court Judge, on 8 May 2026. It was granted after an oral renewal hearing by Robert Palmer KC, sitting as a Deputy High Court Judge, on 10 July 2026.

3. Although the claim was initially brought on two grounds, there is no dispute that the Court has jurisdiction to determine questions of nationality status and to grant appropriate declaratory relief. The principal issue between the parties is therefore one of statutory construction.

**Background Facts**

4. The Claimant was born in India on 20 April 1979 and is an Indian citizen. His mother was born in Kenya on 25 April 1948 at a time when Kenya formed part of the British colonial territories. She became a citizen of the United Kingdom and Colonies ("CUKC") on 1 January 1949 pursuant to section 12(1)(a) of the British Nationality Act 1948 (“the 1948 Act”). The Claimant's maternal grandparents were born in India. The Claimant’s father was born in India on 15 April 1947 and remains an Indian citizen; his status has no relevance to the instant claim.

5. On 1 January 1983 by virtue of the 1981 Act the Claimant's mother became a British Overseas Citizen. On 9 September 2004 she was registered as a British citizen pursuant to section 4B of the 1981 Act.

**Immigration and Nationality History**

6. The Claimant's personal immigration history is as follows.

7. On 7 December 2004 he applied for entry clearance as the child of a settled person. That application was refused on 24 January 2005 and a subsequent appeal was dismissed on 26 April 2006.

8. On 12 September 2007 he applied for and was refused a visit visa.

9. On 5 November 2009 he successfully obtained entry clearance as the dependant of a Tier 4 student and was granted leave to remain until 30 September 2011.

10. On 28 September 2011 he applied for leave to remain as a Tier 4 student; his application was refused on 5 December 2011. Appeals to the First-tier Tribunal and Upper Tribunal were unsuccessful. Thereafter he remained in the United Kingdom without leave. Following service of removal papers on 6 October 2016, the Claimant voluntarily left the United Kingdom on 26 October 2016.

11. On 22 March 2024 he applied for entry clearance as the dependant partner of a skilled worker. That application was granted, although his leave was subsequently curtailed in September 2024. He stayed in the United Kingdom, and remains an overstayer.

12. On 19 November 2024 he applied for registration as a British citizen pursuant to section 4C of the 1981 Act. The application was refused on 6 March 2025 and, following reconsideration, was again refused on 28 August 2025. On 10 July 2026 at an oral renewal hearing he was granted permission to pursue this claim for judicial review of the decision of 28 August 2025.

**Statutory Framework**

13. The determination of this claim requires a review of the history of changes in nationality law in the second half of the last century.

14. Before 1948, persons born in the United Kingdom and throughout the British colonies were ordinarily British subjects. Section 1 of the 1948 Act created the new status of "Citizen of the United Kingdom and Colonies". Under section 4:

*[…] every person born within the United Kingdom and Colonies after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by birth.*

15. Section 5 of the 1948 Act provided as follows:

*Citizenship by descent*

*(1) Subject to the provisions of this section, a person born after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by descent if his father is a citizen of the United Kingdom and Colonies at the time of the birth.*

16. The passing on of citizenship by descent was therefore limited to those whose fathers, and not those whose mothers, were CUKCs at the time of their birth. A similar discrimination was reflected in section 12 of the 1948 Act which provided:

*A person who was a British subject immediately before the date of the commencement of this Act shall on that date become a citizen of the United Kingdom and Colonies if he possesses any of the following qualifications, that is to say –*

*(a) that he was born within the territories comprised at the commencement of this Act in the United Kingdom and Colonies, and would have been such a citizen in section four of this Act had been in force at the time of his birth;*
*(b) that he is a person naturalised in the United Kingdom and Colonies;*
*(c) that he became a British subject by reason of the annexation of any territory included at the commencement of this Act in the United Kingdom and Colonies.*

*A person who was a British subject immediately before the date of the commencement of this Act shall on that date become a citizen of the United Kingdom and Colonies if at the time of his birth his father was a British subject and possessed any of the qualifications specified in the last foregoing section.*

17. This was what has become known as a "historic legislative unfairness" which later statutes sought to remedy.

18. The Immigration Act 1971 ("the 1971 Act") created the concept of the right of abode. Section 2 of the 1971 Act was amended when the British Nationality Act 1981 ("the 1981 Act") entered into force on 1 January 1983. The following parts of section 2 of the 1971 Act are quoted from the version which applied to the Claimant when he was born.

*(1) A person is under this Act to have the right of abode in the United Kingdom if*
*(a) he is a citizen of the United Kingdom and Colonies who has that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or*
*(b) he is a citizen of the United Kingdom and Colonies born to or legally adopted by a parent who had that citizenship at the time of the birth or adoption, and the parent either—*

*(i) then had that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or*

*(ii) had been born to or legally adopted by a parent who at the time of that birth or adoption so had it; or*

*(c) he is a citizen of the United Kingdom and Colonies who has at any time been settled in the United Kingdom and Islands and had at that time (and while such a citizen) been ordinarily resident there for the last five years or more; or*

*[…]*

19. The key provision for the purposes of this application is section 4C of the 1981 Act; this was introduced by section 13(1) of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act"), and has since been amended. In its current form it reads as follows:

> *4C Acquisition by registration: certain persons born before 1983*
>
> *(1)A person is entitled to be registered as a British citizen if—*
>
> *(a)he applies for registration under this section, and*
>
> *(b)he satisfies each of the following conditions.*
>
> *(2)The first condition is that the applicant was born . . . before 1st January 1983.*
>
> *(3)The second condition is that the applicant would at some time before 1st January 1983 have become a citizen of the United Kingdom and Colonies—*
>
> *(a)under section 5 of, or paragraph 3 of Schedule 3 to, the 1948 Act if assumption A had applied,*
>
> *(b)under section 12(3), (4) or (5) of that Act if assumption B had applied and as a result of its application the applicant would have been a British subject immediately before 1st January 1949, or*
>
> *(c)under section 12(2) of that Act if one or both of the following had applied—*
>
> *(i) assumption A had applied;*
>
> *(ii) assumption B had applied and as a result of its application the applicant would have been a British subject immediately before 1st January 1949.*

*(3A) Assumption A is that—*

*(a)section 5 or 12(2) of, or paragraph 3 of Schedule 3 to, the 1948 Act (as the case may be) provided for citizenship by descent from a mother in the same terms as it provided for citizenship by descent from a father, and*

*(b)references in that provision to a father were references to the applicant's mother.*

*(3B)Assumption B is that—*

*(a)a provision of the law at some time before 1st January 1949 which provided for a nationality status to be acquired by descent from a father provided in the same terms for its acquisition by descent from a mother, and*

*(b)references in that provision to a father were references to the applicant's mother.*

*(3C)For the purposes of subsection (3B), a nationality status is acquired by a person ("P") by descent where its acquisition—*

> *(a)depends, amongst other things, on the nationality status of one or both of P's parents, and*
>
> *(b)does not depend upon an application being made for P's registration as a person who has the status in question.*

*(3D)In determining for the purposes of subsection (3) whether a person would have been a citizen of the United Kingdom and Colonies, the requirement that a person's birth was registered at a United Kingdom consulate, as set out in section 5(1)(b) of the British Nationality Act 1948, is to be ignored.*

*(4)The third condition is that immediately before 1st January 1983 the applicant would have had the right of abode in the United Kingdom by virtue of section 2 of the Immigration Act 1971 (c. 77) had he become a citizen of the United Kingdom and Colonies as described in subsection (3) above.*

*(5)For the purposes of the interpretation of section 5 of the 1948 Act in its application in the case of assumption A to a case of descent from a mother, the reference in the proviso to subsection (1) of that section to "a citizen of the United Kingdom and Colonies by descent only" includes a reference to a female person who became a citizen of the United Kingdom and Colonies by virtue of—*

> *(a)section 12(2), (4) or (6) only of the 1948 Act,*
>
> *(b)section 13(2) of that Act,*

*(c)paragraph 3 of Schedule 3 to that Act, or*
*(d)section 1(1)(a) or (c) of the British Nationality (No. 2) Act 1964*

20. Section 4C therefore confers an entitlement to registration upon a person who satisfies three cumulative conditions.

21. The Claimant satisfies the first condition because he was born before 1 January 1983.

22. The Claimant also satisfies the second condition: applying the assumptions contained in section 4C(3A), and treating maternal descent in the same way as paternal descent under the 1948 Act, the Claimant would have become a CUKC before 1 January 1983.

23. The dispute in this case concerns the third condition in section 4C(4), which requires that immediately before 1 January 1983 the Claimant would have had the right of abode under section 2 of the 1971 Act had he become a CUKC as described in section 4C(3).

24. The argument centres on the interpretation of the words *"so had it"* in section 2(1)(b)(ii) of the 1971 Act. The question is whether the right of abode depends upon the person's grandparent having been a citizen by reason of birth in the United Kingdom and Islands at the time of the parent's birth, or whether Parliament intended a wider definition of citizenship to apply to grandparents, encompassing citizenship derived from birth in any of the colonies.

**Case Law**

25. This is not the first time the Court has been required to consider the construction of this provision. In R (Bhawan) v Secretary of State for the Home Department [2009] EWHC 469 (Admin), His Honour Judge Inglis sitting as a Deputy High Court Judge considered an application for a declaration that the claimant was a British citizen. The claimant sought to register himself pursuant to section 4C of the 1981 Act. The parties agreed that, as in this case, it was the third condition that was in dispute. The judge recited section 2 of the 1971 Act and considered the meaning of the words *"so had it"* as follows:

*6. The rival contentions are these, that for the claimant section 2(1)(b)(i) and (ii) are strictly alternatives and they should be read entirely separately. One is that the parents, that is in this case the claimant's mother, had citizenship by birth, adoption*

*or naturalisation or registration in the United Kingdom. Or the alternative is that the claimant's mother had been born to, or legally adopted by, a parent who had the time of the birth or adoption had so had it. The claimant submits that (ii) that refers to the grandparent of the claimant does not depend upon any geographical location of registration of becoming a citizen but is unrelated to (i). It is submitted that the words, "so had it" simply refer to citizenship and the reference to citizenship in 2(1)(b) do not refer to (i).*

*7. The Secretary of State submits that does not give proper expression to the meaning, "so had it" and in particular the word "so" and submits that the expression, "so have it" [sic] refers to the geographical qualification in (i). In developing these submissions the Secretary of State […] submits that the construction […] contended [for] by the claimant makes no sense because it would mean that it would be an easier route for qualification by way of a grandparent than simply by way of a parent.*

*8. A contrary argument is put that since the parent has to be a citizen what is required by the 2(1)(b)(ii) route is that there should be two generations of forebears who are connected with the United Kingdom by citizenship and that is the way to look at the section. Secondly, it is submitted by the claimant that the geographical connection with the United Kingdom at the time of becoming a citizen is not in fact required by the whole scheme of the Act because registration in the United Kingdom is extended by section 2 (4) to include people who, for a limited period of time, were registered as citizens by the United Kingdom High Commissioner in a number of listed countries. So, the purpose, it is submitted, is not simply a geographical one if one looks at the* section as a whole.

26. Having set out the opposing arguments, he went on to say:

*9. In my judgment, the construction contended for by the Secretary of State is the right construction because I see no other sensible meaning for the word "so" [except as] a reference to the immediately preceding paragraph. The fact that (i) and (ii) involve alternative routes to citizenship does not detract from that it seems to me to be clear grammatical sense and the fact that there is a semi colon and an "or" dividing the two alternatives does not mean that one should not search for a proper meaning for the words, "so have it." [sic] I do not think that "so" can simply refer to the fact of citizenship because that could have said quite easily. So in my judgment the*

*expression, "so have it" [sic] refers to citizenship that is required in the way that [is] provided for in section 2(1)(b)(i).*

27. In short, the judge found that the right of abode under section 2(1)(b) of the 1971 Act required that either a parent or a grandparent was born in the United Kingdom and Islands, and not anywhere else in the colonies. This is of course a first instance decision, and I am not bound by it, although as Lord Neuberger said in Willers v Joyce (No. 2) [2016] UKSC 44; [2018] AC 843, *"So far as the High Court is concerned, puisne judges are not technically bound by decisions of their peers, but they should generally follow a decision of a court of co-ordinate jurisdiction unless there is a powerful reason for not doing so."*

28. In Secretary of State for the Home Department v Ize-Iyamu [2016] EWCA Civ 118; [2016] Imm AR 771, the Court of Appeal considered the same point of construction. Moore-Bick LJ discussed the meaning of the words *"so had it".* While it is right that these comments are obiter, they give force to the suggestion that the conclusion of the judge in Bhawan is correct. Moore-Bick LJ said:

*17. […] In order for the respondent to have acquired the right of abode under that section, therefore, it would be necessary for his mother at the date of his birth to have acquired the status of a citizen of the United Kingdom and Colonies in the United Kingdom by birth, adoption, naturalisation or registration (none of which was the case) or to have been born to or legally adopted by a parent who at the time of her birth or adoption "so had it."*

*18. The meaning of the expression "so had it" in section 2(1)(b)(ii) was one of the issues in the appeal. Mr. Malik submitted that it meant no more than "also had it" and could therefore be satisfied if one of the respondent's maternal grandparents had acquired citizenship of the United Kingdom and Colonies as a result of having been born in one of the colonies, including, presumably, St Kitts, Nevis and Anguilla. In my view, however, that is clearly not what it means. The whole thrust of section 2 as originally enacted was to limit the right of abode to those who had a direct or indirect link to this country through the acquisition here of the status of a citizen of the United Kingdom and Colonies. It would be very strange if a child could inherit the right of abode from a grandparent who had acquired citizenship of the United Kingdom and Colonies abroad, but from a parent only if he or she had acquired it in this country.*

*In my view the context in which the expression is found makes it quite clear that it is meant to refer to a grandparent who had acquired citizenship "in the same way", i.e., in this country and not elsewhere. The case of R (Bhawan) v Secretary of State for the Home Department [2009] EWHC 469 (Admin) to which our attention was drawn and in which the expression was interpreted as having that meaning, was in my view correctly decided.*

29. In R (Murugason) v Secretary of State for the Home Department [2023] EWCA Civ 1336; [2024] 1 WLR 1474 The Court of Appeal dealt with an argument based on the preceding subsection of the 1971 Act to the one that concerns this court. The court considered and rejected an argument that in section 2(1)(b)(i) the words *"in the UK"* qualified only registration, and did not extend to birth, adoption and naturalisation. While the Court of Appeal did not specifically consider the point raised in this case, as their decision was confined to the interpretation of subsection (i) rather than subsection (ii), Baker LJ quoted with approval the judgment of Moore-Bick LJ in Ize-Iyamu:

*As Moore-Bick LJ said in Ize-Iyamu (at paragraph 18), "The whole thrust of Section 2 as originally enacted was to limit the right of abode to those who had a direct or indirect link to this country through the acquisition here of the status of a citizen of the United Kingdom and Colonies." The right of abode was restricted to those with a close connection to this* country. *I do not accept Mr Malik's argument that those persons who acquired citizenship of the United Kingdom and Colonies by birth necessarily had a sufficiently close connection.*

30. Accordingly, although the only case directly deciding the specific issue arising in the present proceedings is a first-instance decision, its reasoning is reinforced by subsequent decisions of the Court of Appeal addressing closely related issues.

**The Claimant's Argument**

31. The Claimant argues that immediately before 1 January 1983 he would have possessed a right of abode under section 2 of the 1971 Act had citizenship been transmissible through his mother in the same way as through his father. He submits that section 4C of the 1981 Act is a remedial provision enacted to address historic sex discrimination in nationality law and should be interpreted so as to achieve that purpose.

32. The Claimant submits that section 2(1)(b)(ii) of the 1971 Act creates a distinct route to establishing the right of abode. On his construction, the words *"so had it"* refer only to citizenship status and do not import the geographical qualification contained in section 2(1)(b)(i).

33. The Claimant relies upon the history of nationality legislation. He submits that, prior to the 1948 Act, "British nationality" was a unitary imperial nationality under which British subjects throughout the Empire enjoyed the right to enter and reside in the United Kingdom. He points out that his maternal grandfather, born in India in 1914, was a British subject and therefore possessed those rights.

34. The Claimant accepts that neither he nor his mother satisfy the requirements of section 2(1)(b)(i). He therefore relies upon the position of his maternal grandfather. It is submitted that, at the date of his mother's birth in April 1948, his maternal grandfather possessed in substance what would later be described by the 1971 Act as the right of abode, namely the freedom to enter and reside in the United Kingdom without restriction. The correct construction of the statute means that there is no requirement that he acquired his status through one of the geographically restricted means identified in section 2(1)(b)(i). His status as a British subject, born in one of the Colonies, is sufficient.

35. In oral submissions the Claimant sought to distinguish the authorities relied upon by the Defendant. It was submitted that the decision in Bhawan and the observations in Ize-Iyamu did not address the argument now advanced, namely that what appears today to be an anomalous distinction between parents and grandparents would not necessarily have appeared so when viewed in the context of the nationality legislation as it stood in 1971. It was argued that changes subsequently introduced by the 1981 Act have altered the legislative landscape and made the earlier scheme appear less coherent than it would have seemed at the time.

36. The Claimant further submits that section 4C must be construed in a manner which gives practical effect to Parliament's intention to remedy historic injustice. The historic injustice relied upon is that the Claimant's mother, despite being a CUKC, was unable to transmit that status to her legitimate children in the same way as a male citizen could have done.

37. The Claimant therefore submits that section 2(1)(b)(ii) of the 1971 Act should be construed as a separate route to establishing the right of abode and that such a construction best accords with the remedial purpose of section 4C of the 1981 Act.

**The Defendant's Argument**

38. The Defendant submits that the issue before the Court has already been substantially resolved by authority. The Defendant argues that the phrase *"so had it"* in section 2(1)(b)(ii) necessarily refers back to the manner in which citizenship was acquired under section 2(1)(b)(i), including the requirement that citizenship must have been acquired by birth, adoption, naturalisation or registration in the United Kingdom or Islands. On that construction, neither the Claimant's mother nor his maternal grandparents possessed the qualifying connection required by the statute. Accordingly, even applying the assumptions required by section 4C, the Claimant could not have possessed a right of abode immediately before 1 January 1983.

39. The Defendant submits that the authorities consistently recognise that the purpose of the 1971 Act was to confine the right of abode to those with a close connection to the United Kingdom and Islands, and that the words *"so had it"* in subparagraph (ii) have correctly been interpreted as incorporating the geographical qualification contained in subparagraph (i).

40. The Defendant further submits that the Claimant's interpretation produces an inherently anomalous result. On the Claimant's construction it would become easier to establish the required connection through a grandparent than through a parent. Parliament cannot sensibly have intended a more remote ancestral connection to suffice where a closer one would not.

41. The Defendant accepts that section 4C of the 1981 Act is remedial in nature, but submits that it remedies a specific historic discrimination by treating maternal and paternal descent equivalently. It does not abolish the separate requirement contained in section 4C(4), nor does it permit the Court to disregard the historic right of abode requirements which Parliament expressly preserved.

**Discussion**

42. I address first the submissions concerning the historic unfairness suffered by the Claimant's mother, and upon her subsequent registration as a British citizen in 2004.

43. It is clear that the Claimant's mother's registration as a British citizen in 2004 does not assist in resolving the issue before the Court. Pursuant to changes introduced by the 2002 Act she became eligible to register as a British citizen under section 4B of the 1981 Act. This was because she was a British Overseas Citizen with no other nationality. That registration was not a recognition that she had been deprived of British citizenship by the particular historic discrimination relied upon in these proceedings. That route to citizenship addressed a different perceived unfairness, namely the position of British Overseas Citizens who would otherwise have been left without an effective nationality. It did not proceed on the basis that she ought always to have been a British citizen. It therefore has no bearing on the Claimant's case.

44. More fundamentally, the question before the Court is not whether the Claimant's mother experienced historic disadvantage. It is whether he himself was a victim of any historic disadvantage she may have suffered. The simple position is this: had he been able at birth to acquire through his mother the rights that he could have acquired through a father in her position, he would have been a CUKC at birth. He would have lost that status, along with all other CUKCs, on 1 January 1983 under the 1981 Act. He would not have been able to register, as his mother did, in 2004, as, unlike her, he was not a British Overseas Citizen with no other nationality. He was an Indian citizen, living in India.

45. The argument, raised in oral submissions, that had it not been for the historic legislative unfairness, the Claimant's mother and her husband would have been more likely to raise their family in the United Kingdom, is entirely speculative, and merits no further discussion.

46. In order to succeed, the Claimant must demonstrate that, were it not for the historic legislative unfairness, he would have possessed a right of abode immediately before 1 January 1983. That requires a close examination of the wording of section 2 of the 1971 Act. The third requirement, quoted above, is that:

> *(b) he is a citizen of the United Kingdom and Colonies born to or legally adopted by a parent who had that citizenship at the time of the birth or adoption, and the parent either—*

> *(i) then had that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or*
>
> *(ii) had been born to or legally adopted by a parent who at the time of that birth or adoption so had it;*

47. The critical words are those contained in section 2(1)(b)(ii), and the question is what the word *"it"* in the phrase *"so had it"* signifies.

48. The Claimant argues that *"it"* refers to any citizenship of the United Kingdom and Colonies. The Defendant argues that *"it"* refers to citizenship acquired by birth, adoption, naturalisation or registration in the United Kingdom and Islands. The Claimant's maternal grandfather was born in India; he would fulfil the Claimant's definition, but not the Defendant's.

49. The Claimant's argument requires the word *"so"* to perform little or no substantive function. On that construction Parliament could simply have referred to a parent who *"had it"*, namely citizenship. The use of the word *"so"* must in my judgement be accorded some significance. Grammatically and linguistically, the word *"so"* directs the reader back to what has just been described. The natural reading of those words is that *"so"* refers back to the immediately preceding description in section 2(1)(b)(i). The relevant description, therefore, is citizenship acquired by birth, adoption, naturalisation or registration in the United Kingdom or the Islands.

50. I do not accept that the provision is particularly unclear or badly drafted. On ordinary principles of statutory construction, its meaning appears reasonably straightforward. The phrase *"so had it"* naturally refers back to the manner in which citizenship was described in subparagraph (i).

51. That conclusion is strongly reinforced by authority. In Bhawan the Court considered essentially the same argument advanced before me, namely that subparagraphs (i) and (ii) constituted entirely separate routes and that the words *"so had it"* referred simply to citizenship itself. The Court rejected that submission and held that the phrase referred back to the qualification described in subparagraph (i).

52. The same reasoning was subsequently endorsed, albeit obiter, in Ize-Iyamu. Moore-Bick LJ explained that the broad scheme of section 2 was to confine the right of abode to those who themselves, or whose parents or grandparents, had acquired the relevant

citizenship connection in the United Kingdom. He further stated that it would be *"very strange"* if a child could inherit the right of abode from a grandparent who acquired citizenship abroad but could inherit it from a parent only if that parent had acquired citizenship in the United Kingdom.

53. The subsequent Court of Appeal decision in Murugason proceeds on the same understanding of the statutory scheme, and emphasises that the purpose of the 1971 Act was to limit the right of abode to those with a close connection to the United Kingdom.

54. I have carefully considered the Claimant's submission that the apparent anomaly identified by Moore-Bick LJ is not in fact anomalous when viewed in the legal and historical context of 1971. It is said by the Claimant that nationality law then operated very differently and that Parliament may deliberately have chosen a broader route to citizenship through grandparents than through parents. I am not persuaded by that submission.

55. Firstly, even if I accepted that the statutory scheme might have appeared less surprising in its original historical context than it appears today, that would not answer the fundamental difficulty posed by the language Parliament chose. The words *"so had it"* are the words chosen by Parliament. They continue to point back to the immediately preceding description in subparagraph (i). Historical context cannot displace the ordinary meaning of the statutory language.

56. Secondly, I do not accept that Parliament intended to create a substantially broader route to the right of abode through grandparents than through parents. Such a scheme would represent a striking divergence. Had Parliament intended that result one would expect clear language to that effect. Instead, Parliament grouped the two subparagraphs together and used wording which in my judgement makes it quite clear that subparagraph (ii) is referring back to the conditions set out in subparagraph (i).

57. Thirdly, the Claimant's argument ultimately requires me to conclude that the existing authorities are wrong. Bhawan directly addressed the construction now advanced. The observations of Moore-Bick LJ in Ize-Iyamu endorse that decision. Murugason, while addressing a different issue, proceeds on the same understanding of the statutory scheme. To return to the words of Moore-Bick LJ in Ize-Iyamu: *"the broad scheme of the legislation was that the right of abode was restricted to those citizens of the*

*United Kingdom and Colonies who had acquired that status in the United Kingdom, or one of whose parents or grandparents had himself acquired that status in the United Kingdom."* Nothing advanced before me provides a *"powerful reason"* as envisaged in Willers v Joyce that would justify departing from Bhawan, nor does it persuade me that the observations of Moore-Bick LJ in Ize-Iyamu or the reasoning subsequently adopted in Murugason were wrong.

58. Moreover, I accept the Defendant's submission that the Claimant's interpretation produces an irrational result. On the Claimant's argument, it would effectively become easier to establish the requisite connection through a grandparent than through a parent. A person lacking a qualifying parental connection could nevertheless succeed by reliance upon a more remote ancestral connection. That is difficult to reconcile with both the structure of section 2 and the evident legislative purpose underlying it.

59. The historical context identified in the authorities points firmly in the opposite direction. The concept of the right of abode was introduced in order to distinguish between those CUKCs with a sufficient connection to the United Kingdom and those without it. The Claimant's interpretation would considerably widen, rather than preserve, the class entitled to claim that status.

60. Nor do I accept that this conclusion frustrates the purpose of section 4C. Section 4C is undoubtedly a remedial provision. Its purpose is to remove the historic discrimination which prevented citizenship from being transmitted through the maternal line in the same way as through the paternal line. However, the remedy enacted by Parliament is the specific remedy contained in the statute itself. Parliament chose to remedy that historic discrimination by requiring the application of specified assumptions. It did not abolish the separate requirement contained in the third condition.

61. Properly understood, section 4C places an applicant in the position he would have occupied had mothers been able to transmit citizenship in the same way as fathers. It does not create a broader route to citizenship than would ever have existed through the paternal line, nor does it authorise the Court to disregard the historic right of abode requirements which Parliament expressly chose to preserve. The Court's task is therefore to apply the assumptions Parliament enacted, not to make additional assumptions for which the legislation makes no provision.

62. For those reasons, I am satisfied that the Defendant's construction of section 2(1)(b) is correct. The phrase "so had it" refers back to the qualification identified in section 2(1)(b)(i). The Claimant cannot satisfy the third condition in section 4C(4) and therefore cannot establish an entitlement to registration as a British citizen under section 4C.

63. It follows that the claim is dismissed.